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DEPARTMENT OF PLANNING AND PERMITTING

CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL MAYOR



KATHY K. SOKUGAWA ACTING DIRECTOR

TIMOTHY F. T. HIU DEPUTY DIRECTOR

EUGENE H. TAKAHASHI DEPUTY DIRECTOR

February 14, 2019

2018/SMA-58(MS)

The Honorable Ann H. Kobayashi Interim Chair and Presiding Officer and Members Honolulu City Council 530 South King Street, Room 202 Honolulu, Hawaii 96813

Dear Interim Chair Kobayashi and Councilmembers:

SUBJECT: Special Management Area (SMA) Use Permit Application

No. 2018/SMA-58

567 Portlock Road Residential Redevelopment 525, 555, 561 and 567 Portlock Road - Maunalua

Tax Map Keys 3-9-026: 044 to 048

We recommend approval of this application for an SMA Use Permit for the renovation of two existing single-family dwelling units, construction of a new single-family dwelling unit with an attached three-car garage and ancillary structures, including two swimming pools, wine storage, a detached multiple-car garage and two cabanas, and repair of existing structures within the shoreline setback area. Attached for your consideration are: (1) our report recommendation and draft resolution; and (2) the transcript of the Public Hearing held on January 14, 2019. No members of the public attended the public hearing.

Pursuant to Chapter 25, Revised Ordinances of Honolulu, the City Council must act within 60 calendar days after receipt of our Findings and Recommendation; however, the City Council may extend this period of time upon receipt of a request from the Applicant for an extension. The extension is not automatic and thus, if an extension of time is not requested in a timely manner, the application may be denied due to the Council's time deadline.

The Honorable Ann H. Kobayashi Interim Chair and Presiding Officer and Members February 14, 2019 Page 2

Should you have any questions, please contact me at 768-8000.

Very truly yours,

Kathy K. Sokugawa

Acting Director

Attachments

cc: Evershine II L.P.

Hawaii Planning LLC (Dennis Silva, Jr.)

APPROVED BY:

Roy K. Amemiya, Jr.

Managing Director

DEPARTMENT OF PLANNING AND PERMITTING OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

)
FILE NO. 2018/SMA-58(MS)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

I. GENERAL INFORMATION

A. <u>Basic Information</u>:

APPLICANT/LANDOWNER:

Evershine II L.P.

LOCATION:

525, 555, 561 and 567 Portlock Road -

Maunalua (Exhibit A-1)

TAX MAP KEYS:

3-9-026: 044 through 048

LAND AREA:

235,090 square feet (5.40 acres)

EXISTING ZONING:

R-10 Residential District (Exhibit A-2)

STATE LAND USE DISTRICT:

Urban District

SUSTAINABLE COMMUNITIES

PLAN AREA:

East Honolulu

SURROUNDING LAND USES:

Single-family dwellings

B. <u>Proposal</u>: The Applicant proposes to renovate two single-family dwellings, identified on the exhibits as the "Harbor Villa" and the "Portlock House"; and construct a new single-family dwelling with an attached three-car garage, identified on the exhibits as the "Bay Villa", and ancillary structures, including two swimming pools, wine storage, a detached multiple-car garage and two cabanas, and repair to existing structures within the shoreline setback area (Project).

Specifically, the Project is best described in three parts (Harbor Villa Residence, Bay Villa Residence and Residence), as identified below:

- "Harbor Villa Residence" is the development of Parcels 44, 45 (portion) and 46 (portion) and consists of two existing single-family dwellings (see Exhibit B-2 for Site Plan). It includes the renovation of an 18,998-square-foot, four-story single-family dwelling (identified as "Harbor Villa") with a roof deck; and construction of a detached three-car garage, a 1,066-square-foot cabana, a spa, outdoor shower and a swimming pool. Except for exterior repainting to the other existing single-family dwelling (identified as "staff house"), no other improvements are proposed. The Applicant proposes repair work to the existing drain line that runs diagonally along Parcels 45 and 46, and install a new dry stream (Parcels 44 and 46) with new landscaping. At the driveway, a new eight-foot high entry gate is proposed (see Exhibits B-1 through B-9).
- "Bay Villa Residence" is the development of Parcels 45 (portion), 46 (portion) and 48 (portion) (see Exhibit B-11 for Site Plan). It includes the repair of the existing saltwater pond, removal of the existing tennis courts and construction of a new 22,564-square-foot, two-story, single-family dwelling with a basement and an attached three-car garage; a conservatory, badminton court, bowling alley, a 1,488-square-foot cabana and a swimming pool (see Exhibits B-10 through B-21).
- "Portlock Residence" is the development of Parcels 47 (portion) and 48 that includes the renovation of the existing 19,976-square-foot, single-family dwelling (identified as the "Portlock House") with a roof deck, swimming pool and wine storage (see Exhibit B-23 for Site Plan). A portion of the existing swimming pool is within the shoreline setback area. At the driveway, a new seven-foot-high entry gate is proposed. No improvements are proposed for the other single-family dwelling (identified as the "guest house") (see Exhibits B-22 through B-28).

Two existing driveways will be retained and a new driveway will be constructed. Approximately 57 off-street parking spaces will be provided within the various garages, motor courts and driveways on the Project site. Existing landscaping will be relocated and new landscaping will be installed. Furthermore, the Applicant proposes to install a new fence, and restore and maintain the existing nonconforming structures within the 40-foot shoreline setback area. A Minor Shoreline Structure permit will be required for the fence within the shoreline setback area. Work to the seawall, saltwater pool and boat harbor, including the retractable stairs, will be limited to repairs necessary to maintain the structural integrity of the walls, such as spall work and new landscaping.

The cost of the Project is estimated at \$17 million and is anticipated to be completed in the summer of 2022.

C. <u>Background</u>: Pursuant to the State Shore Waters Construction Permit No. 1186, issued by the Harbors Division of the Department of Transportation in 1960, a public shoreline access easement "A" was designated across the entire shoreline of the Harbor Villa Residence (i.e., over the breakwater, across the boat channel of the surge break, seawall and fill on the other side). Note that the public shoreline access easement across this shoreline improvement must be maintained as long as the boat channel remains in existence.

On August 30, 2012, Building Permit No. 700511, was approved for alteration to the Portlock House that included reconfiguring the bathroom, bedroom, kitchen, media and closets; and construction of a new driveway and six-foot-high wall at the driveway. The building permit for the work to the remaining Project was not acquired prior to adoption of Ordinance No. 11-28 on October 20, 2011, which changed the definition of "development" for Chapter 25 of the Revised Ordinances of Honolulu (ROH) Special Management Area (SMA) regulations. The Portlock House and Harbor Villa have remained uninhabited for a number of years.

On August 3, 2016, SMA Use Permit No. 2015/SMA-48 was adopted under Resolution No. 16-127 ("Resolution") for the same proposal. Pursuant to Condition H of the Resolution, the Applicant was required to obtain building permits by August 3, 2018. The Applicant did not obtain any building permit and the permit expired.

II. FINDINGS OF FACT

On the basis of the evidence presented, the Director has found:

A. <u>Site and Surrounding Area</u>:

1. Site: The subject site is comprised of five parcels (the "Property"), recognized by Tax Map Keys 3-9-026: 044 through 048, and is located between Portlock Road and the sea, four of the five parcels are shoreline lots. The site is irregularly shaped, approximately 5.40 acres in area, in the R-10 Residential District. The Project site slopes downwards from front to rear and right to left (see Exhibit A-4). The Property was previously owned by Henry J. Kaiser and was used as a large residential estate with several residential structures, including the Portlock Residence, a single-story, single-family dwelling (identified as "staff house"), the Harbor Villa, a single-family dwelling (identified as "guest quarters"), gazebo and maintenance shed. A 50-foot-wide private boat harbor, saltwater pond and two swimming pools also exist on the Project site. The existing saltwater pool at the Bay View Residence is fed by the ocean through an

opening in the seawall and is used for swimming. The saltwater pond is outside of the shoreline setback area and is at the center of the Bay View Residence. It is not connected to the saltwater pool and does not drain into the ocean. The shoreline of the Harbor Villa Residence contains a small private boat harbor, a concrete breakwater, a surge break, concrete rubble masonry seawall, a channel and footbridge across the mouth of the boat harbor. The existing 19,976-square-foot Portlock House and the 18,998-square-foot Harbor Villa are in uninhabitable condition. Building Permit Nos. 670551 and 724068 were issued to alter and repair the existing Portlock House and Building Permit No. 421612 was issued to partially demolish the Harbor Villa. The previous owners did not complete the work on the dwellings.

The site is located entirely within the SMA (Exhibit A-1), and is subject to Chapter 205A-2, Hawaii Revised Statutes (HRS) and Chapter 25, ROH. Except for the staff house, the Project involves construction and reconstruction of four single-family dwellings that are greater than 7,500 square feet of floor area and is part of a larger development. The site is within the tsunami evacuation zone. The terrain of the site contains rocky outcrops by the shoreline and sloping lawn of finger grasses, koa-haole and Indian Fleabane.

The soils consists of Koko silt loam, as identified by the U.S. Department of Agriculture Natural Resources Conservation Service. The Property has slopes ranging from one percent to areas with 50 percent and greater. The site will be well landscaped, which will help retain rainfall and roof runoff. Excess runoff will sheet flow towards the ocean. There is an existing 20-foot-wide drainage easement on Parcel 46 that runs from Portlock Road to the ocean.

Potable water is supplied to the site by municipal lines. Wastewater is collected through a network of sewer lines along Portlock Road and processed at the Hawaii Kai Wastewater Treatment Plant.

2. Surrounding Uses: The Project site is bordered by Portlock Road to the east, the Pacific Ocean to the west, and single-family dwellings to the north and south. The Project site is 0.06 miles from Kokee Beach Park, less than a mile from Koko Head Neighborhood Park, and 1.5 miles from Hanauma Bay Nature Preserve. An easement for a public pedestrian access to the shoreline crosses various nearby parcels (Parcels 2 through 4, 13 and 14) and through Kokee Beach Park (see Exhibit A-5). The surrounding properties are zoned P-1 Restricted Preservation, P-2 General Preservation and R-10 Residential Districts (see Exhibit A-2).

The adjacent properties are subject to the Maunalua/Koko Kai Community Design Guidelines ("Guidelines"). On April 27, 2016, the DPP received a copy of a letter from Mr. Raymond S. Iwamoto, an attorney who reviewed the Declaration of Protective Provisions ("Declaration"), the title and deed. Based on his review, the Property is not subject to any height restrictions on trees or other landscaping and is not subject to the design requirements of the private Guidelines. For purposes of the SMA, deed and/or lease restrictions are not criteria by which the Project is analyzed. The interpretation of such documents, furthermore, is outside of the purview of this permit and is a civil matter.

- B. <u>Flood Hazards</u>: The Federal Emergency Management Agency Flood Insurance Rate Map (Community Panel No. 150030C0393G), of November 5, 2014, indicates that the site is within Flood Zone D and the shoreline is within Flood Zone VE (see Exhibit A-3). Flood Zone D is described as areas where there are possible but undetermined flood hazards. Flood Zone VE is determined to be located in the 1.0 percent annual chance floodplain.
- C. <u>Environmental Compliance</u>: The Applicant was required to prepare an Environmental Assessment (EA) pursuant to Chapter 343, HRS, as it involves work within the shoreline and requires a major SMA Use Permit. The Department of Planning and Permitting (DPP) issued a Finding of No Significant Impact (FONSI) on May 18, 2015. The FONSI was published in the State Office of Environmental Quality Control Environmental Notice on June 8, 2015.

D. <u>Applicable Plans, Policies and Regulations</u>:

1. General Plan (GP) and Sustainable Communities Plan: The GP and the East Honolulu Sustainable Communities Plan (EHSCP) provides the long-range planning policies for the Project site and its surrounding area. The proposed Project is within the Urban Community Boundary and is located in an area that is designated as residential and low density apartment. The long-range GP goal is to provide convenient access to all beaches and inland recreational areas. The small boat harbor, breakwater and dredged boat channels offshore of the site, were developed by Henry J. Kaiser in the early 1960s, pursuant to a State Shore Waters Construction Permit (No. 1186) issued by the Harbors Division of the Department of Transportation. As a condition of that approval, a public shoreline access easement "A" was designated across the entire shoreline of the Harbor Villa (i.e., over the breakwater, across the boat channel to the surge break, seawall and fill on the other side). The public shoreline access easement across this shoreline improvement must be maintained as long as the boat channel remains in existence.

2. Land Use Ordinance (LUO): The site is in the R-10 Residential District. Uses and development standards for the R-10 Residential District are governed by the LUO, Chapter 21, ROH. Since the Project site was jointly developed (File No. 2015/CUP-35) on July 8, 2015 as a single zoning lot, of 235,090 square feet up to eight dwelling units may be developed on the lot, pursuant to LUO Section 21-8.20A. Including the new Bay Villa Residence, five single-family dwelling units will be developed on the zoning lot.

On a sloping lot in the R-10 Residential District, the maximum height limit is 30 feet. On April 23, 1999, Zoning Variance No. 1998/VAR-506 approved two covered balcony additions for the Harbor Villa to exceed the maximum height limit by 9.5 feet. Therefore, the safety railings at the roof deck must not exceed 39.5 feet.

- 3. <u>Flood Hazard Areas</u>: The site is within the coastal high hazard and flood fringe areas. Chapter 21A, ROH (Flood Hazard Areas), enumerates regulations and additional development standards required to develop within these flood areas.
- E. Other Permits and Approvals: According to the Applicant, the Project will require building permits, construction plan approval, development permits for grading and grubbing and a Minor Shoreline Structure Permit (if the Applicant intends to install a fence within the shoreline setback area, as shown on the plans). The Applicant will obtain a National Pollutant Discharge Elimination System permit coverage for discharges of wastewater, including stormwater runoff into State surface waters.

Improvements within the shoreline setback area are proposed and includes the restoration and maintenance work for existing nonconforming structures (i.e., seawall, saltwater pool and boat harbor walls). All work within the shoreline setback area will comply with ROH Section 23-1.6, relating to nonconforming structures, and no work will exceed 59 percent of the replacement cost of that structure.

- F. <u>Agency Comments</u>: Comments concerning the Project were solicited and received from various government agencies during the EA phase. Agency comments relevant to the SMA Use Permit were considered, and are discussed under the Analysis Section of this report. Comments were received from the following agencies:
 - 1. <u>City</u>: Board of Water Supply, Honolulu Fire Department, and Department of Environmental Services.
 - 2. <u>State of Hawaii</u>: Department of Health, Clean Water Branch; Department of Land and Natural Resources; Office of Conservation and Coastal

Lands, Land Division, Division of Aquatic Resources and Office of Planning, Engineering Division.

- 3. <u>Federal</u>: The U.S. Army Corps of Engineers; and the U.S. Department of Interior, U.S. Fish and Wildlife Service.
- G. <u>Public Hearing and Community Comments</u>: Upon acceptance of the application for processing, informational notices were sent by the DPP to various community organizations, public officials, the Hawaii Kai Neighborhood Board No. 1 and property owners within 300 feet of the site.

On January 14, 2019, at 10:30 a.m., the DPP held a Public Hearing to receive testimony concerning the SMA Use Permit application at the Koko Head District Park, Multi-Purpose Room C. With the exception of DPP staff and the Agent, no members of the public attended the hearing. No testimony was given, and the hearing was closed. A copy of the transcript from the hearing is included as an attachment.

III. ANALYSIS

The proposed Project was analyzed in accordance with the objectives, policies and guidelines established in Sections 25-3.1 and 25-3.2, ROH, as well as Sections 205A-2 and 205A-26, HRS.

A. Coastal Hazards:

1. Flood Hazards: The majority of the Project area is within Flood Zone D where the flood hazards are undetermined. Only the small makai portion of the site, the harbor and Harbor Villa, is within Flood Zone VE, a coastal high hazard area, and are subject to the regulations of Chapter 21A, ROH, related to development within flood-prone areas and with the rules and regulations of the National Flood Insurance Program, as presented in Title 44 of the Code of Federal Regulations (44CFR), with special attention to Subchapter B, Insurance and Hazard Mitigation.

The first floor of the Harbor Villa (harbor deck and storage) has a finish floor below the base flood elevation. Only uses permitted within this area are access, storage and parking and enclosures are required to be "breakaway." Compliance with Chapter 21A, ROH, will be determined during the building permit review phase.

2. <u>Tsunami</u>: The site is within the Civil Defense's Tsunami Evacuation Zone (Map 3 Wailupe to Hanauma Bay). However, the Department of Emergency Management does not require any mitigation measures for residential properties. Note: The designated tsunami refuge area is at

Koko Head District Park, which is about a mile to the north. The Applicant indicates that the Project is designed in accordance to standards for tsunami and hurricane preparedness and flood and earthquake proofing. Compliance with these standards will be determined at the building permit review phase.

Sea Level Rise (SLR): Data from the Hawaii Sea Level Rise Viewer ("Viewer") estimates the SLR exposure area by combining the footprint of three chronic flooding hazards: 1) Passive flooding; 2) Annual high wave flooding; and 3) Coastal erosion. Based on this information and the rate of greenhouse gas emissions, the Viewer identified four SLR scenarios (0.5 foot, 1.1 foot, 2.0 feet, and 3.2 feet). Based on the projection, 0.5 feet may occur as early as year 2030. According to data from using the Viewer, a portion of the Project site, specifically the Harbor Villa structure, will be impacted by chronic flooding due to 0.5 feet of SLR by year 2030. At 3.2 feet of SLR, Harbor Villa Residence and Portlock Residence will be impacted. The finish floor elevation of the first floor of Harbor Villa structure and Portlock House are 7.30 and 20 feet, respectively. However, in both scenarios, SLR is not anticipated to directly affect the Bay Villa structure, with a first floor elevation of 33.50 feet.

A portion of the site, mainly along the shoreline, is in the VE Flood Zone, which is the coastal high hazard area. It is noted that the structures affected by SLR are existing and the proposed dwellings and accessory structures are located outside of the VE Flood Zone and are well set back from the shoreline. Breakaways are proposed for the enclosures. The Applicant should be required to design the dwellings so that the lowest floor with livable space is above the base flood elevation. This should be a condition of approval.

- B. <u>Alteration to Land Forms</u>: There will be no substantial alteration to the existing topography of the Project site. Since the proposed work is located on a portion of the site that is relatively flat, grading will be limited. Application of Best Management Practices (BMPs) will be required during the review of the detailed grading plans by the DPP. No impacts to SMA resources are anticipated; therefore, no condition of approval is recommended.
- C. <u>Drainage</u>: The majority of the stormwater runoff is absorbed and retained on the Project site by the extensive lawn and landscaping. There is an existing 20-foot-wide storm drain easement that runs from Portlock Road to the ocean through the center of the Project site (see Exhibit B-11). The existing 36-inch diameter drain line that is located within the storm drain easement may require minor repairs and patch work for maintenance purposes. Since there will be no additional lines proposed to connect to the drain line, the existing drain line in its current condition will not pose potential impact to the SMA resource.

Additional drainage improvements will include new drain inlets, drain lines, underground detention system, and bioswales. Also, downspouts that direct stormwater from the roofs to drywells/bubblers will be installed on all buildings.

Stormwater from the roofs of the structures will be routed to downspouts that will flow to drywells or bubblers to help recharge the groundwater and mitigate flooding. Excess runoff will be directed to the drain inlets and drain lines that lead to the underground detention system and proposed bioswales. This allows the stormwater to gradually percolate into the soil and recharge groundwater supplies. Short-term impacts during the construction period will be mitigated using BMPs. Compliance with BMPs for low impact development will be required when the construction and grading plans are submitted to the DPP for review and approval. The Project must comply with the new Rules Relating to Water Quality. By complying with BMPs, low impact development standards, and DPP Rules Related to Water Quality, the drainage situation will be an improvement over the existing conditions. No impacts to SMA resources are anticipated; therefore, no condition of approval is recommended.

- D. <u>Solid and Liquid Waste Disposal</u>: Solid waste will be collected and removed from the site by the City and County of Honolulu Department of Environmental Services. Wastewater is serviced by Hawaii American Water Company, East Honolulu and is collected through a network of sewer lines along Portlock Road. Wastewater in this area is processed at the Hawaii Kai Wastewater Treatment Plant. No significant impacts to SMA resources are anticipated; therefore, no condition of approval is recommended.
- E. <u>Hydrology</u>: The waters of Maunalua Bay are classified as Class A marine waters by the State Department of Health, Water Quality Standards (Title 11, Chapter 54, Hawaii Administrative Rules (HAR)). Under this regulation, the objective is to protect these waters for recreational purposes and aesthetic enjoyment. According to these regulations, Class A waters shall not act as receiving waters for any discharge which has not received the best degree of treatment or control compatible with the criteria established for this class.

During construction, any discharge entering these waters requires National Pollutant Discharge Elimination System and Clean Water permits, pursuant to Chapter 342D and 11-54 and 11-55, HAR. The use of BMPs will be required (i.e., silt fences, turbidity curtains, erosion control blankets, and stabilized construction entrances) to contain silt and sediment generated by near-water construction activities.

F. Flora and Fauna: The Project site is in a developed residential area. The existing vegetation consists of naupaka, plumeria, coconut palm, loulo palms, areca palms, monkey pod trees and coconuts. The proposed landscaping plan relocates the existing landscape and adds native plants.

The U.S. Fish and Wildlife Service stated there are no federally designated critical habitat in the vicinity of the Project site. However, federally endangered Hawaii hoary bat, the endangered hawksbill turtle, the threatened green turtle, Hawaiian seabirds and wedge-tailed shearwater may transit through the vicinity of the Project area. Therefore, the Applicant should not disturb, remove, or trim woody plants greater than 15 feet tall during bat birthing and pup rearing season (June 1 through September 15). This should be a condition of approval.

Artificial lighting near the shoreline may negatively impact the sea turtles and seabirds that cross this area. The Applicant proposes no artificial light from floodlights, uplights, or spotlights will be used that would directly illuminate the shoreline and ocean waters or would be directed to travel across the property boundaries toward the shoreline and ocean water. Lanais facing the ocean and rooftop decks are proposed on the dwellings. The Applicant should comply with light requirements set out in HRS Section 205A-71(b). This should be a condition of approval.

- G. Recreational Resources and Shoreline Access: The site is a shoreline lot with a boat harbor. There is a public shoreline access easement across the entire shoreline of the Harbor Villa Residence. The Applicant will continue to maintain the existing footbridge in the closed position, which would allow pedestrian access at all times, except during ingress and egress of watercraft. This is a condition of approval for Shoreline Variance No. 1998/SV-501. The Project is not expected to have any impact on the recreational resources in the area, including public access to shoreline areas. To assure this, the Applicant should maintain shoreline access during construction of the Project. This should be a condition of approval.
- H. Historic and Cultural Resources: An Archaeological Literature Review ("Review") was prepared and a field inspection was conducted on September 5, 2013. Although the Review does not recommend an archaeological inventory survey (AIS), the State Historic Preservation Division (SHPD) does recommend an AIS be completed. It would identify and document any potential surface and/or subsurface historic properties and determine appropriate mitigation. An Intensive Level Survey (ILS) should also be completed for the buildings on the Property to determine if any are eligible for the Hawaii and National Registers of Historic Places. While the Applicant states that it is not anticipated that the structures are likely to qualify for the Hawaii and/or National Registers of Historic Places, an AIS and an ILS are recommended as a condition of this approval.

Furthermore, in the unlikely event that archaeological sites, including human burials, are uncovered during construction activities, the Applicant is required to cease all work in the immediate area and notify the SHPD. This should be a condition of approval.

- I. Scenic and Open Space Resources: The residential buildings and landscaping are compatible with the surrounding area. The architectural design of the dwellings with a combination of sloped and flat roofs will not significantly obstruct views of the ocean and Maunalua Bay. Because of the existing elevation and the slope of the site, views of the dwellings from the right-of-way will be blocked by landscaping, fences and walls. According to the City and County of Honolulu Coastal View Study, Portlock Road is not identified as a coastal roadway. No impacts to the scenic or open space resources are anticipated; therefore, no condition of approval is recommended.
- J. <u>Consistency with County Plans and Zoning</u>: The Project is consistent with the objectives and policies of the GP and the EHSCP. The Project promotes Object C, relating to providing housing choice reasonably close to employment, recreation, and commercial centers and which are adequately served by public utilities. Also, the Project is consistent with the principals and guidelines for residential use and shoreline access in the EHSCP.

The Project site is located within the R-10 Residential District and will consist of single-family dwellings and accessory structures. Fewer than eight single-family dwellings are proposed on the site. As previously stated, a portion of Harbor Villa will exceed the height limit by up to 9.5 feet. The proposed eight-foot-high entry gate and wall at Harbor Villa Residence and seven-foot-high entry gate at the Portlock Residence encroaches entirely into the required front yard. Fences and walls up to a height of six feet are allowed in a required yard. Therefore, the proposed entry gates and wall must not exceed the six feet in height within the required yard. This should be a condition of approval.

Compliance with the LUO will be confirmed during the review of building permits and inspections. This is a standard condition of approval.

IV. CONCLUSIONS OF LAW

The Director makes the following Conclusions of Law: The proposed development was reviewed under the provisions of Sections 25-3.1 and 25-3.2, ROH, and Sections 205A-2 and 205A-26, HRS, and found to be consistent with established SMA objectives, policies and guidelines. Based on the Analysis, the proposed renovations to two existing dwellings, construction of a new dwelling, including ancillary structures, and site improvements and repairs will not adversely impact SMA resources, provided that appropriate mitigative conditions are observed.

V. RECOMMENDATION

It is recommended that the application for a Special Management Area (SMA) Use Permit be <u>APPROVED</u>, subject to the following conditions:

- A. Renovation of two existing single-family dwellings, construction of a new single-family dwelling with an attached three-car garage and ancillary structures and various improvements within the SMA, and repair of existing structures within the shoreline setback area must be in general conformity with the Project as described in the Report and Recommendation by the Director of the Department of Planning and Permitting (DPP), and as depicted in Exhibits B-1 through B-28. Any changes in the size or nature of the Project which have a significant effect on coastal resources addressed in Chapter 25, Revised Ordinances of Honolulu, and Chapter 205-A, Hawaii Revised Statues (HRS), shall require a new application. Any changes which do not have a significant effect on coastal resources shall be considered a minor modification and therefore permitted under this resolution, upon review and approval of the Director of the DPP.
- B. Prior to issuance of any building permit for the Project, the Applicant must:
 - 1. Complete an archaeological inventory survey (AIS) for the Project area in order to identify and document any potential surface and/or subsurface historic properties and to determine, if needed an appropriate course of mitigation. The selected archaeological firm must consult with the Department of Land and Natural Resources, State Historic Preservation Division (SHPD) prior to initiating the AIS and that a report of the survey findings be submitted to SHPD for review and acceptance pursuant to HRS 13-284; and
 - 2. Complete an intensive level survey for the buildings on the Property in order to determine, if any are eligible for the Hawaii and National Registers of Historic Places. The eligibility determination will help expedite future reviews by the SHPD Architecture Branch by clarifying whether significant architectural properties are located on the site. Property's that are determined eligible and are listed on the State or National Registers qualified by the City and County of Honolulu's historic residential tax credit.
- C. Building permit application plans must show the following:
 - Lowest livable floor at Harbor Villa is above the base flood elevation, applicable at that time; and
 - 2. The walls, fences and gates shall not exceed six feet in height within the required yards.

- D. The Applicant must have archaeological monitoring during construction activities. If, during construction, any previously unidentified archaeological sites or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls) are encountered, the Applicant shall stop work and contact the SHPD immediately. Work in the immediate area shall be stopped until the SHPD is able to assess the impact and make further recommendations for mitigative activity.
- E. The Applicant shall take special care when trimming or clearing woody plants greater than 15 feet tall in order to minimize possible impacts to potential breeding of the hoary bats. Furthermore, between June 1 and September 15, woody plants greater than 15 feet tall shall not be disturbed, removed or trimmed.
- F. No element of the Project shall hinder shoreline access in any way during construction activities on the site.
- G. Artificial light from exterior light fixtures, including, but not necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes, shall be prohibited, if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), HRS.
- H. Approval of this SMA Use Permit does not constitute compliance with other Land Use Ordinances (LUO) or other governmental requirements, including grading and grubbing permits. They are subject to separate review and approval. The Applicant will be responsible for insuring that the final plans for the Project approved under this permit comply with all applicable LUO and other governmental provisions and requirements.
- I. The Applicant shall obtain a development permit for the proposed development within two years of the date of this permit. Failure to obtain a development permit within this period shall render this permit null and void, provided that this period may be extended as follows: The Director of the DPP may extend this period, if the Applicant demonstrates good cause, but the period shall not be extended beyond one year from the initial deadline set by the City Council.

If the Applicant demonstrates good cause for an extension exceeding one year, the Director shall prepare and submit to the Council a report on the proposed extension, which the report shall include the Director's findings and recommendations thereon. The Council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution. If the Council fails to take final action on the proposed extension within the first to occur of: (a) 60 days after receipt of the Director's report; or, (b) the Applicant's then-existing deadline for obtaining a building permit, the extension shall be deemed to be denied.

Dated at Honolulu, Hawaii, this 14th day of February, 2019.

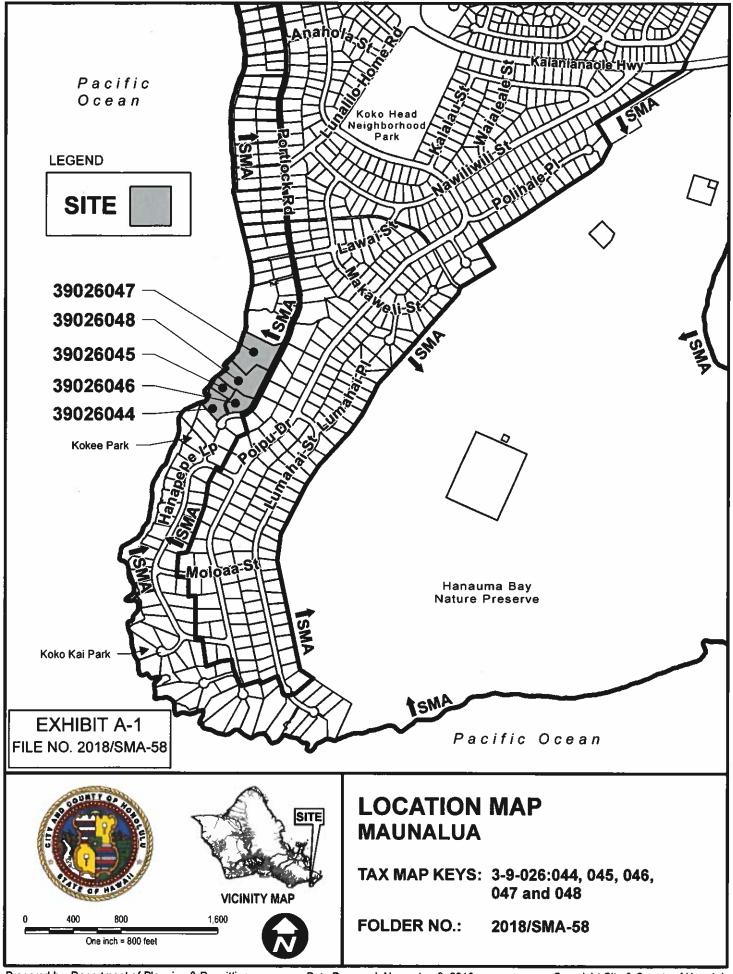
Department of Planning and Permitting City and County of Honolulu State of Hawaii

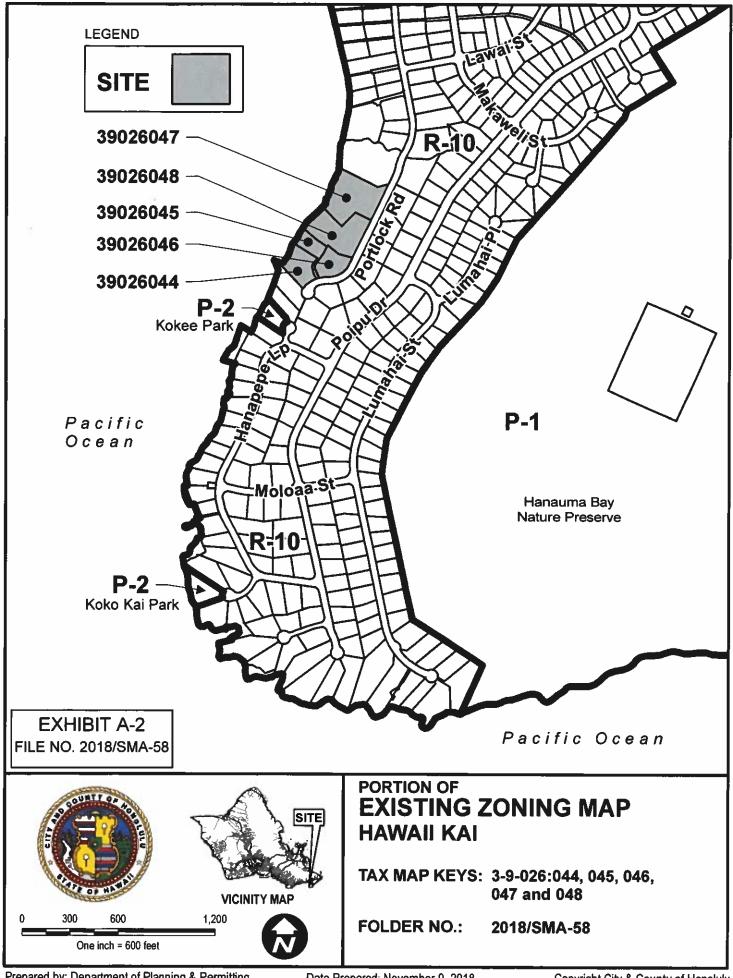
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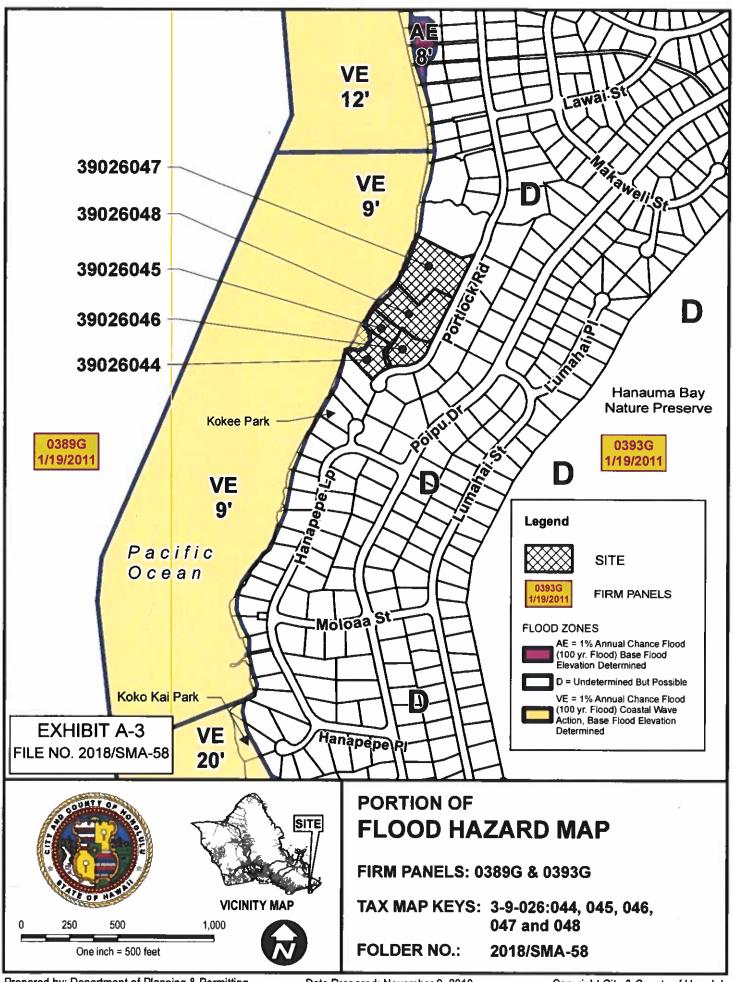
Kathy K. Sokugawa

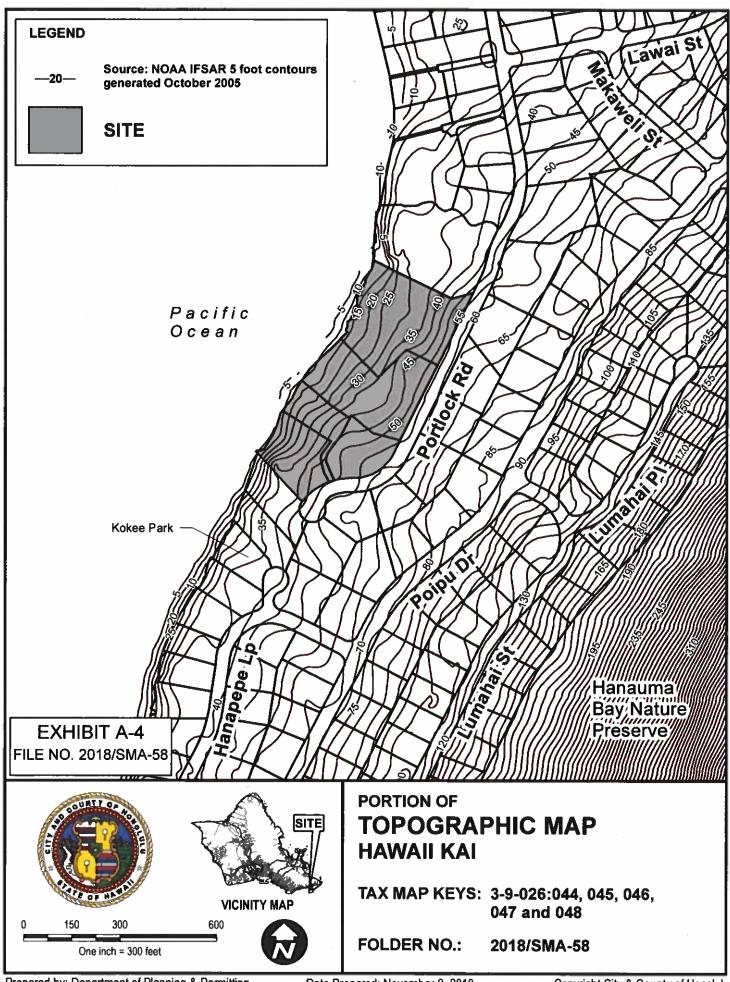
Acting Director

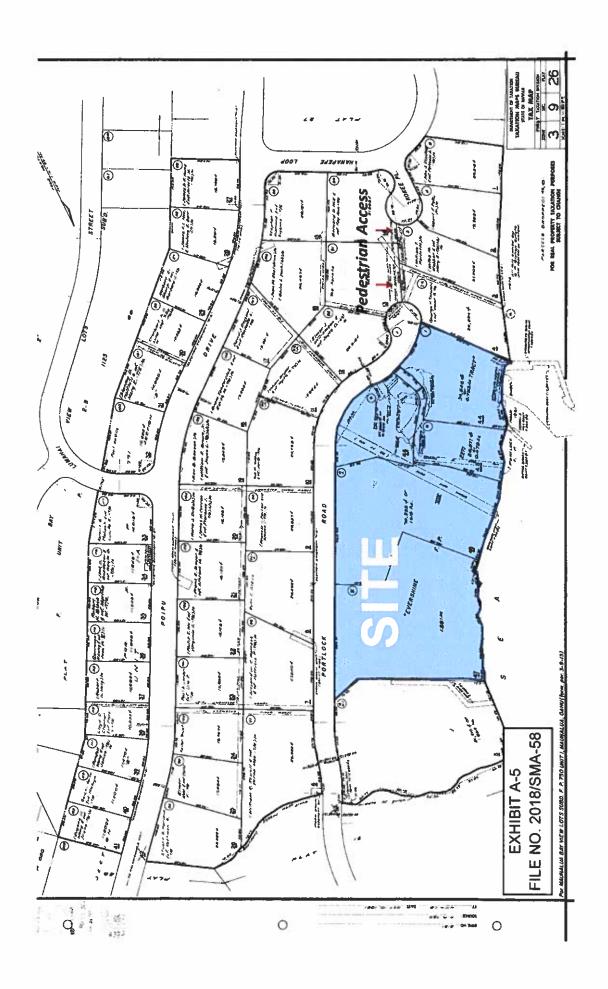
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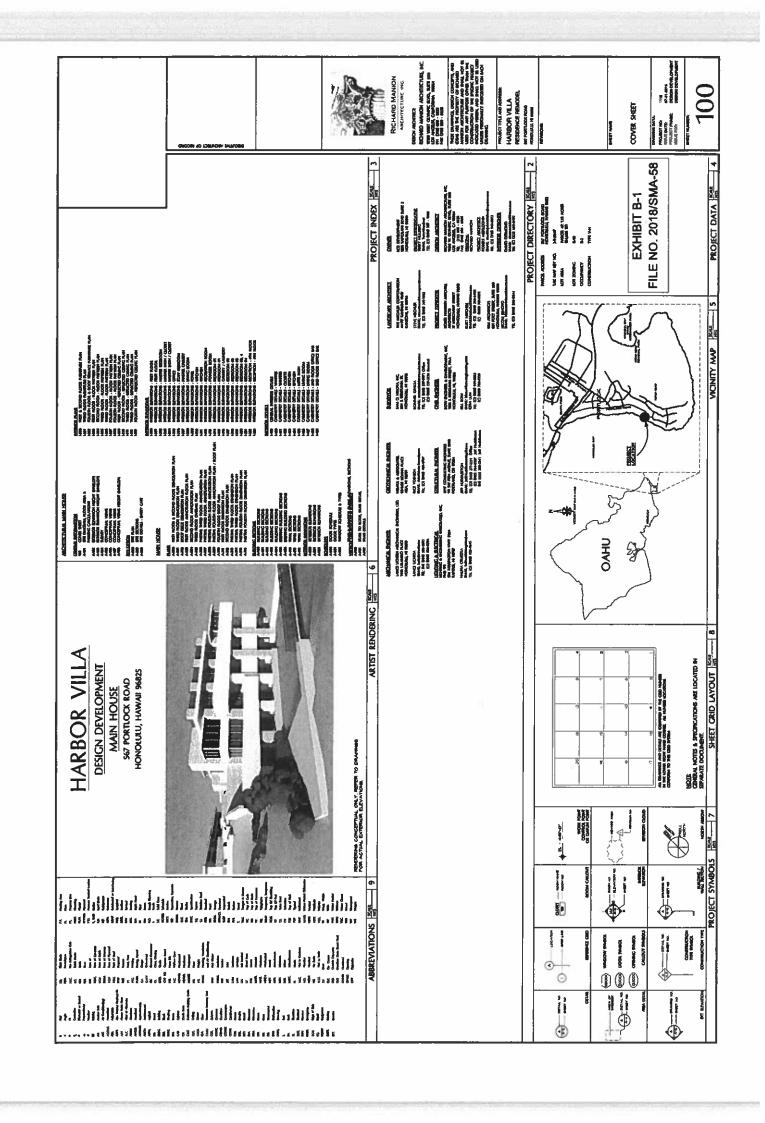


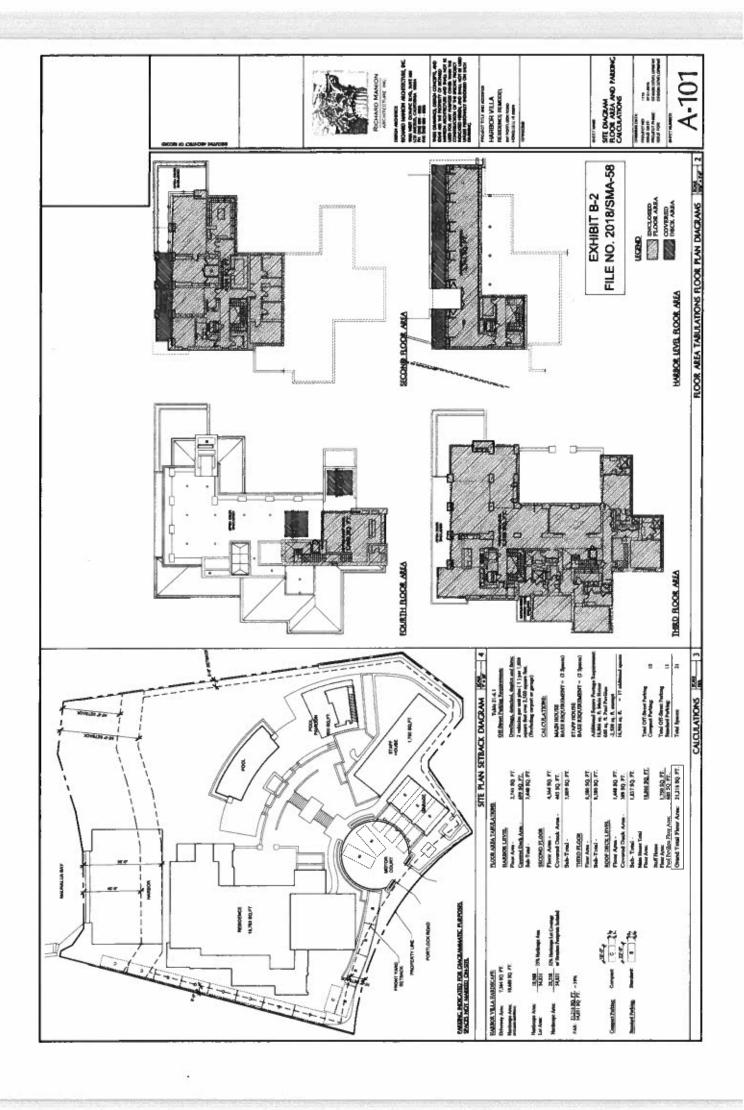


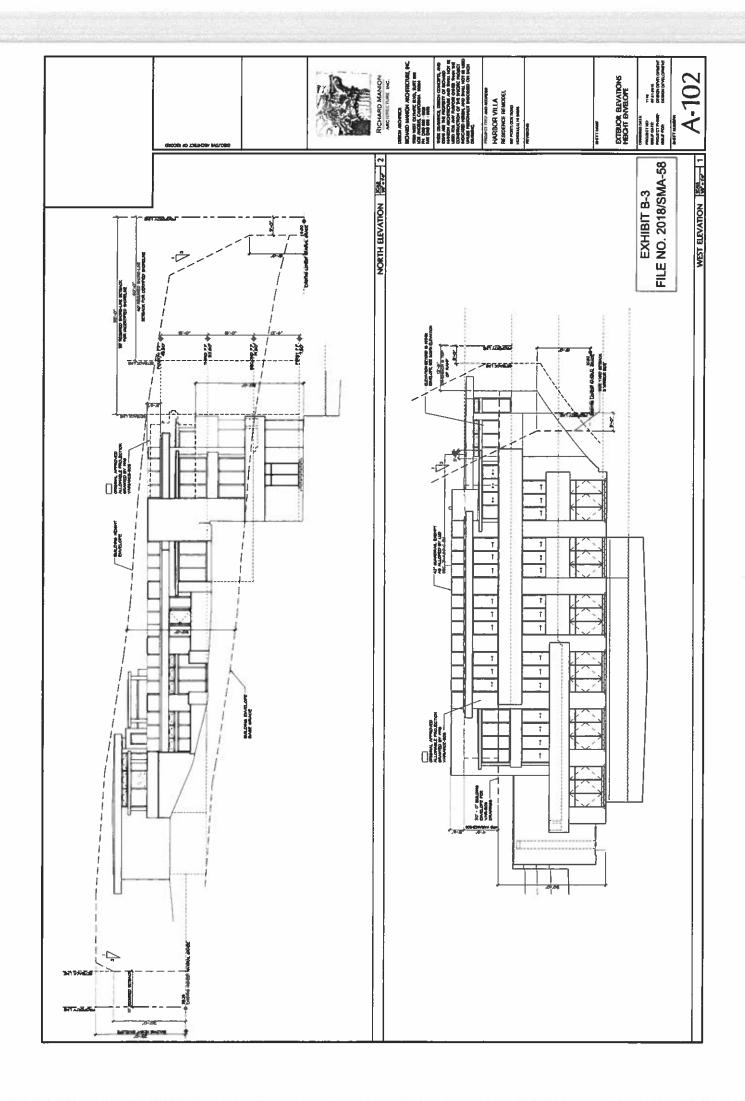


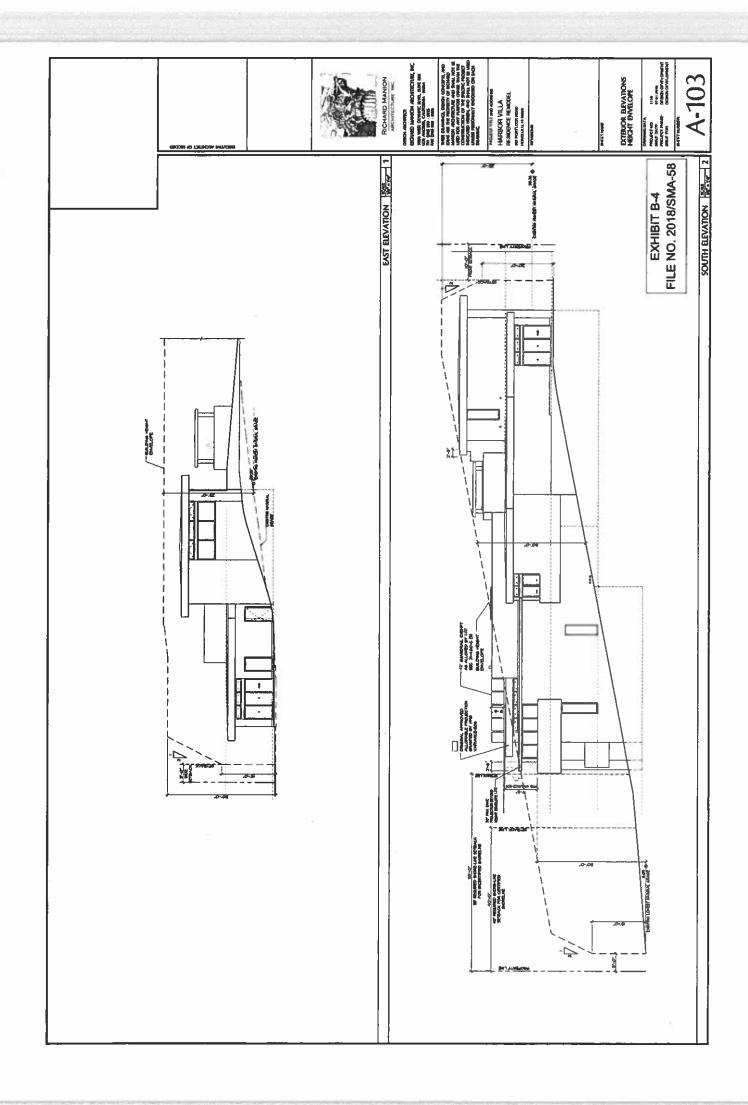


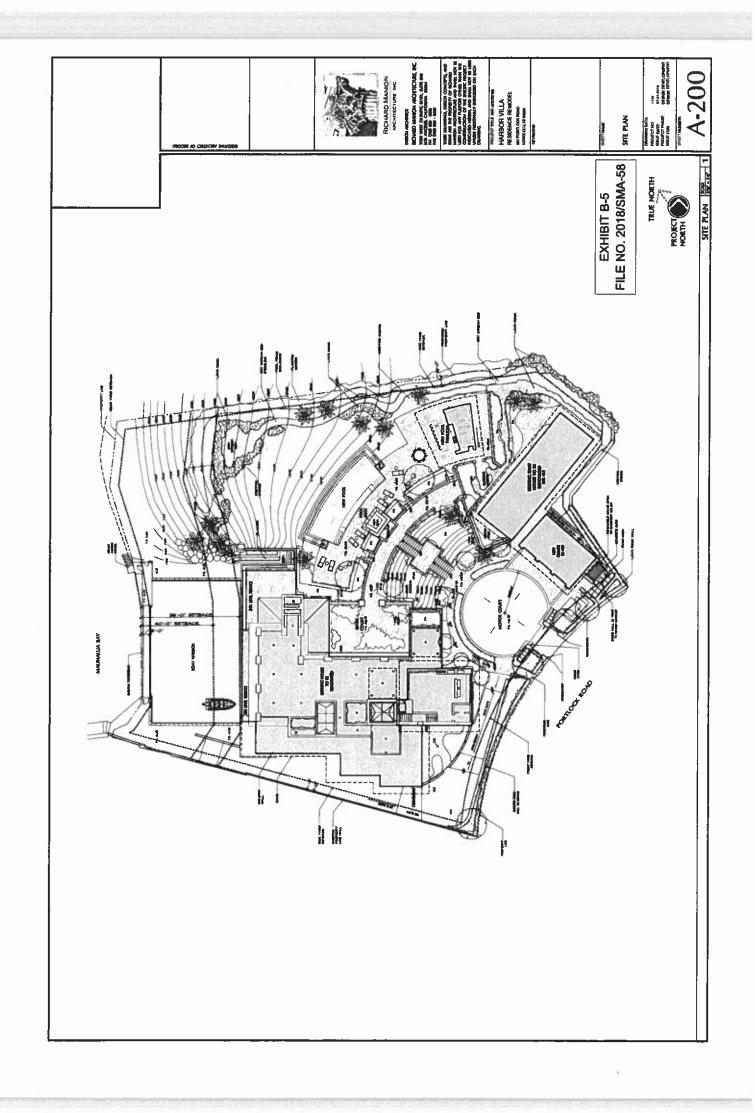


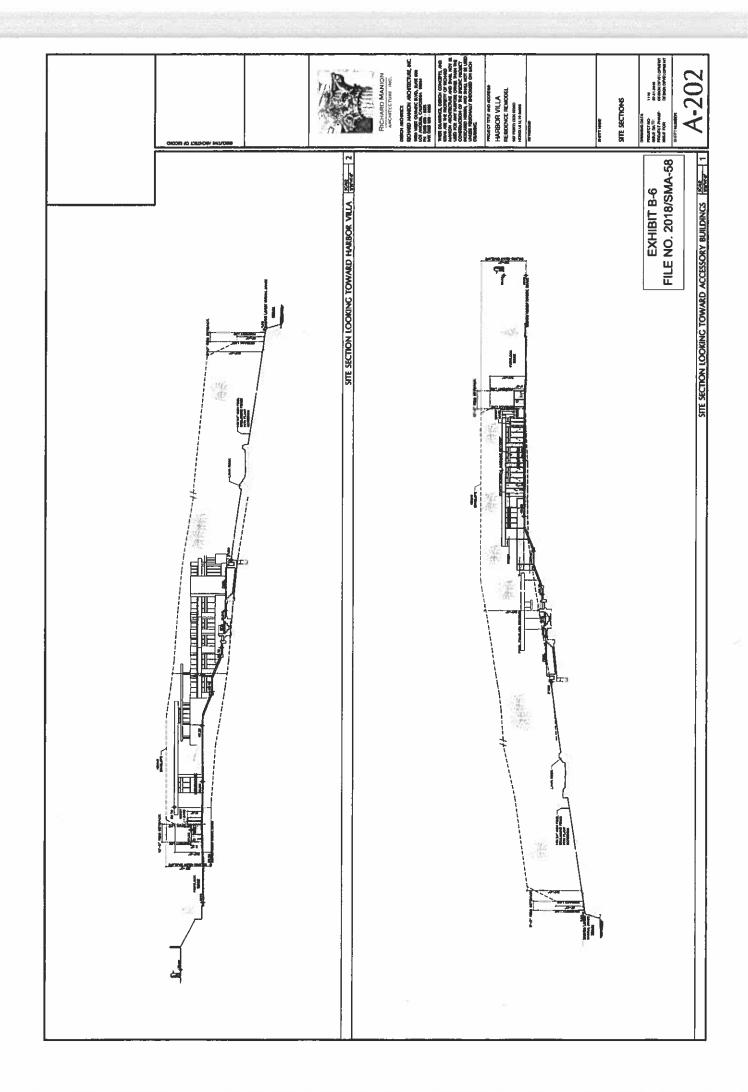


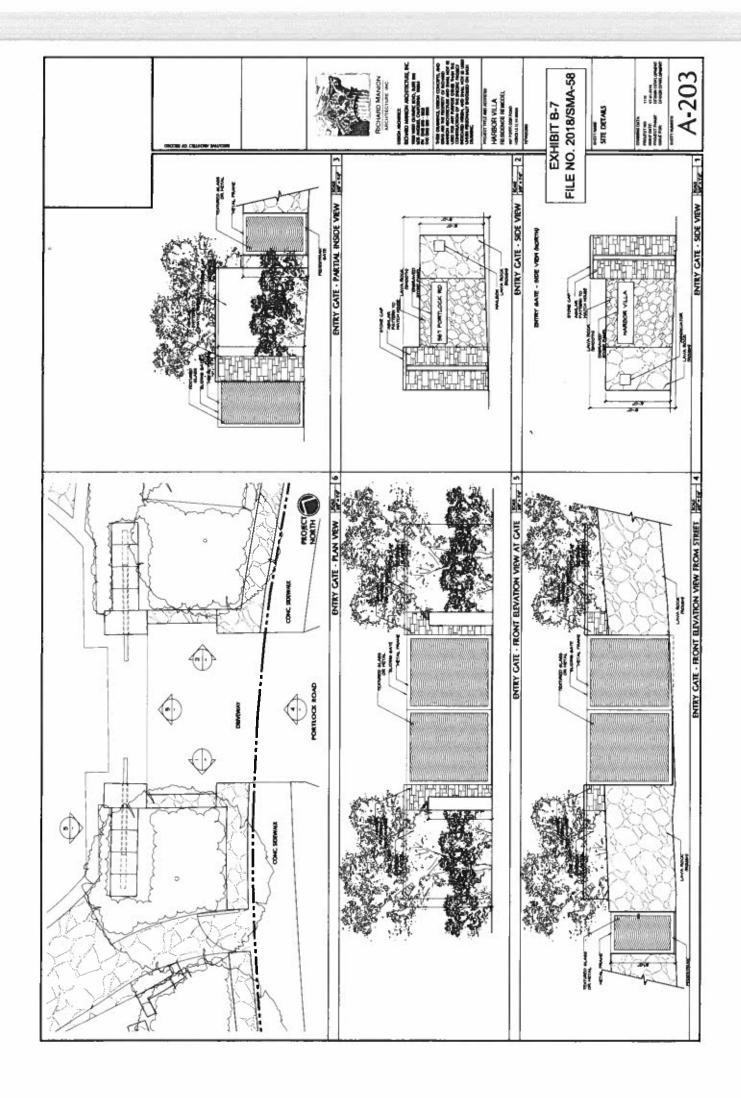


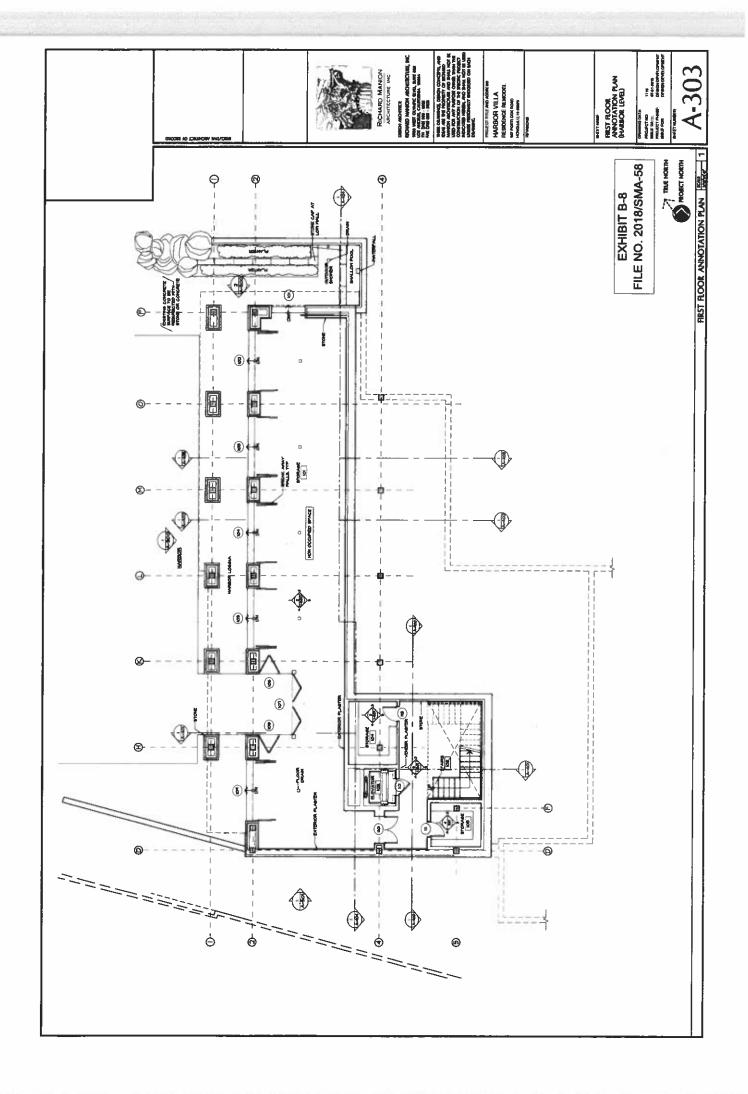


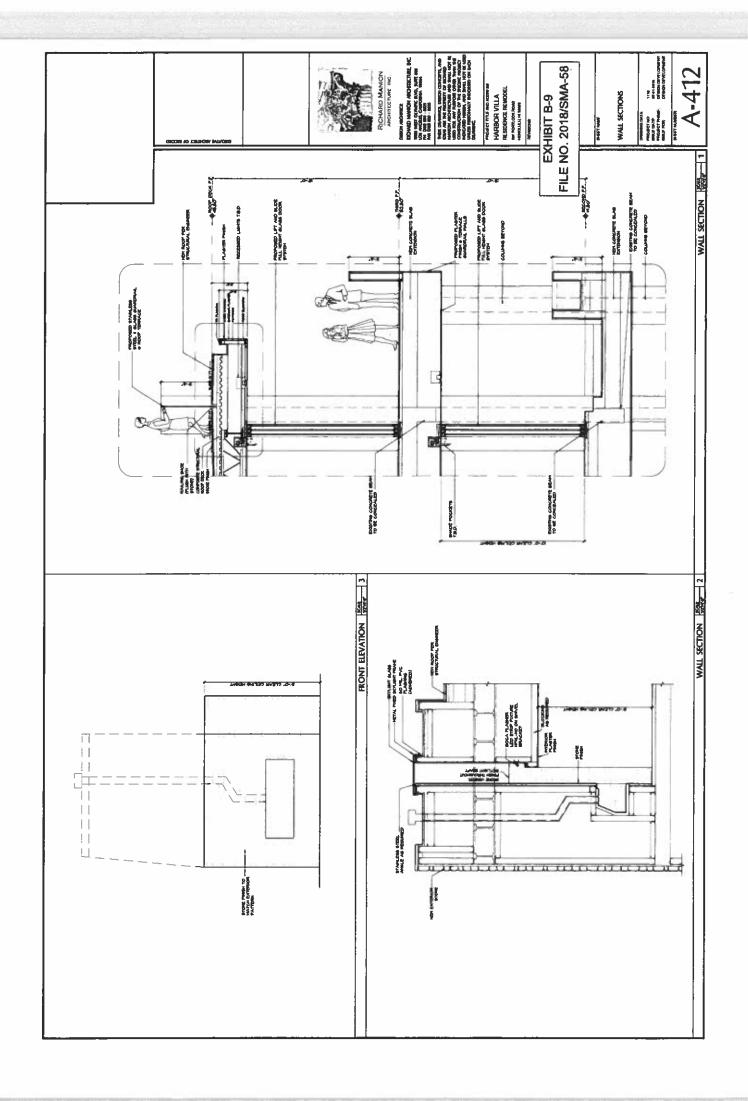


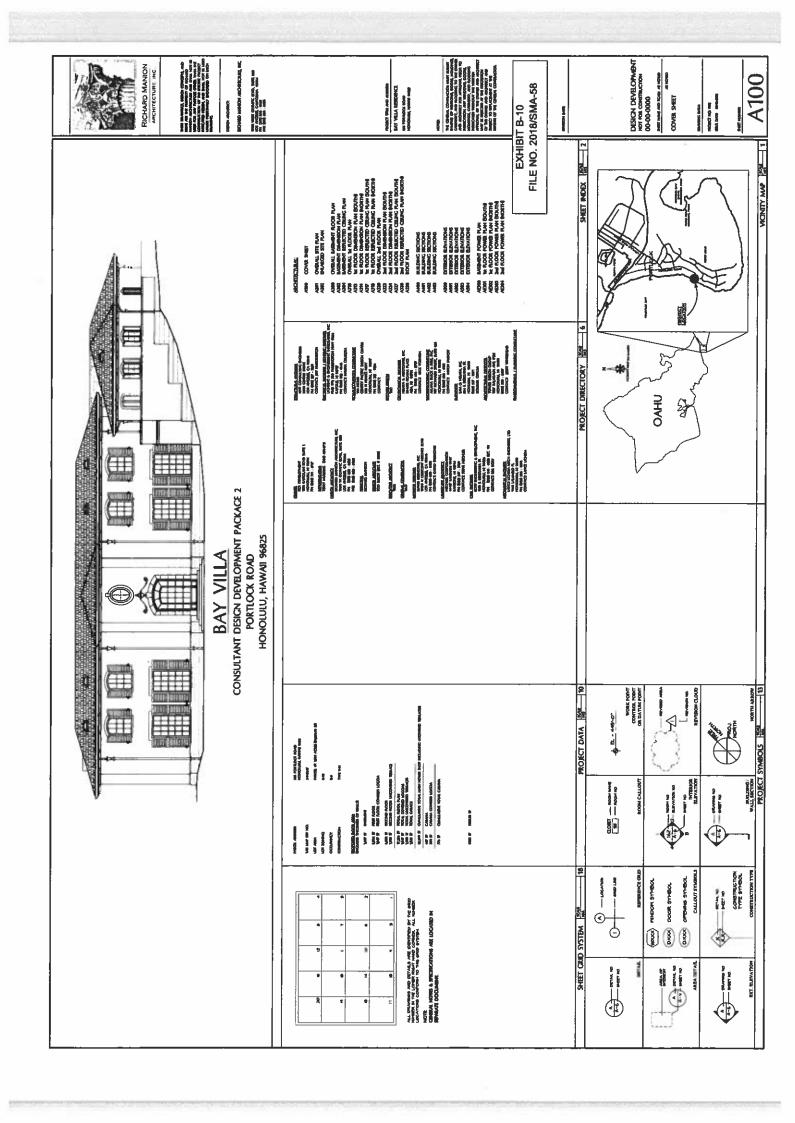


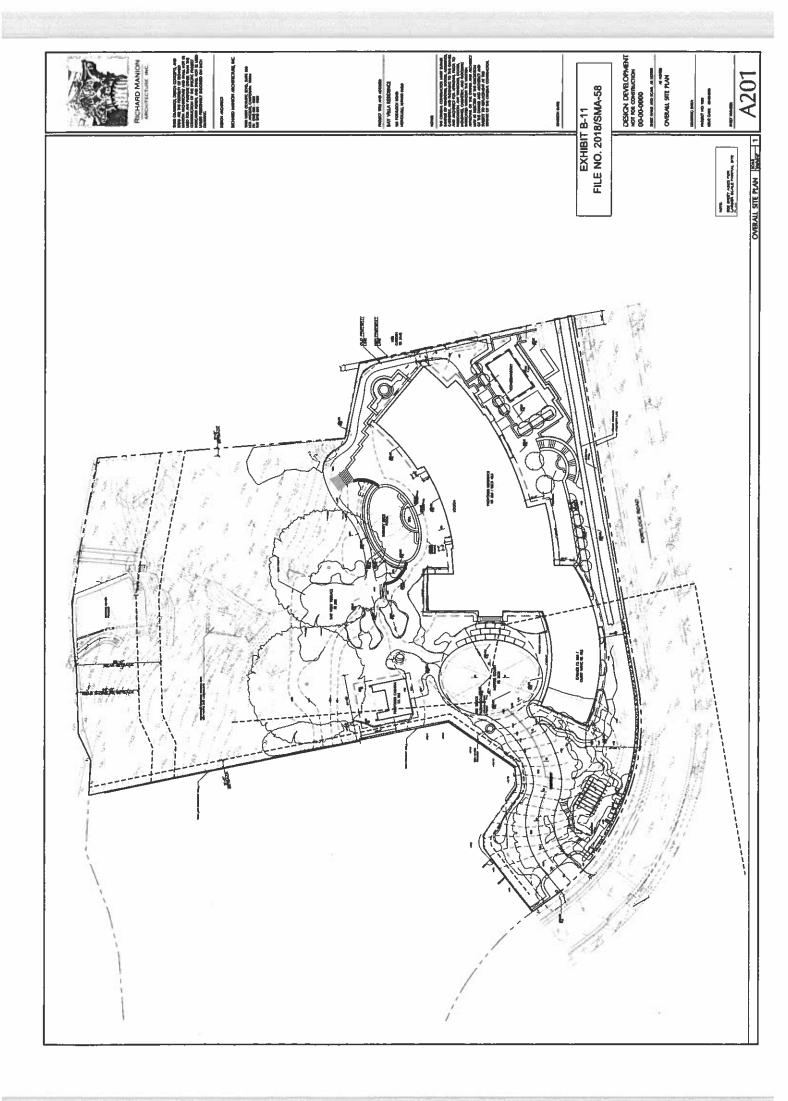


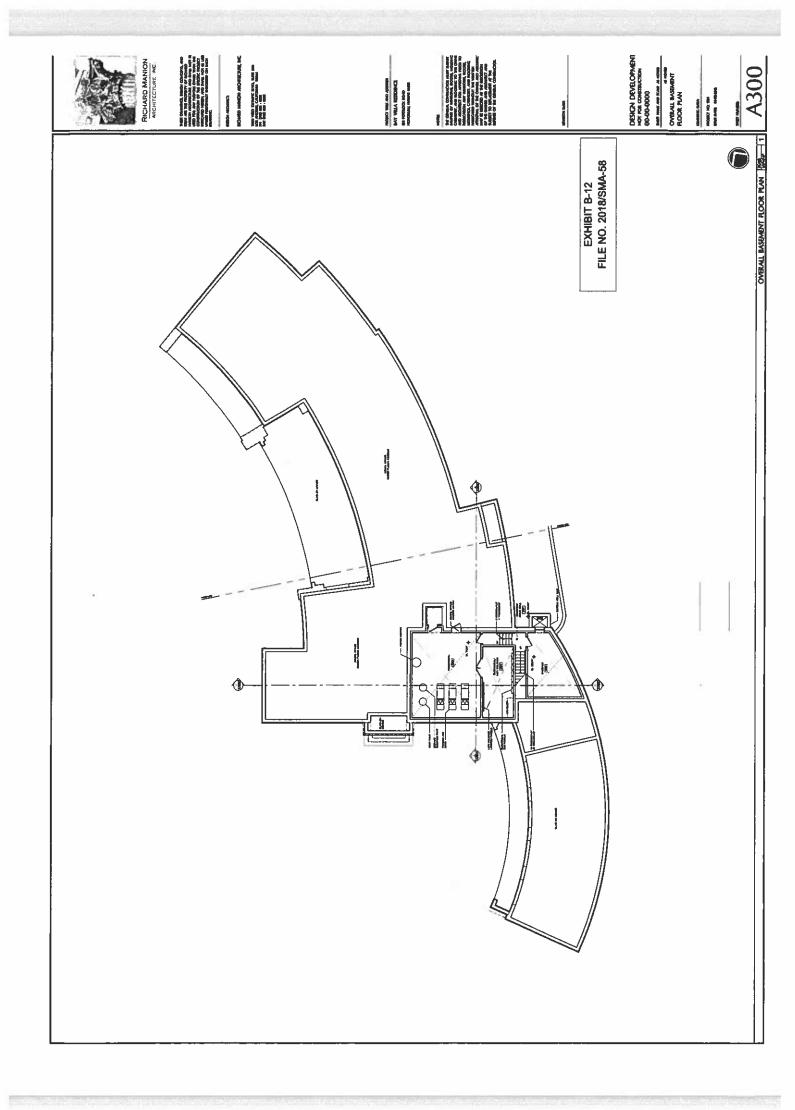


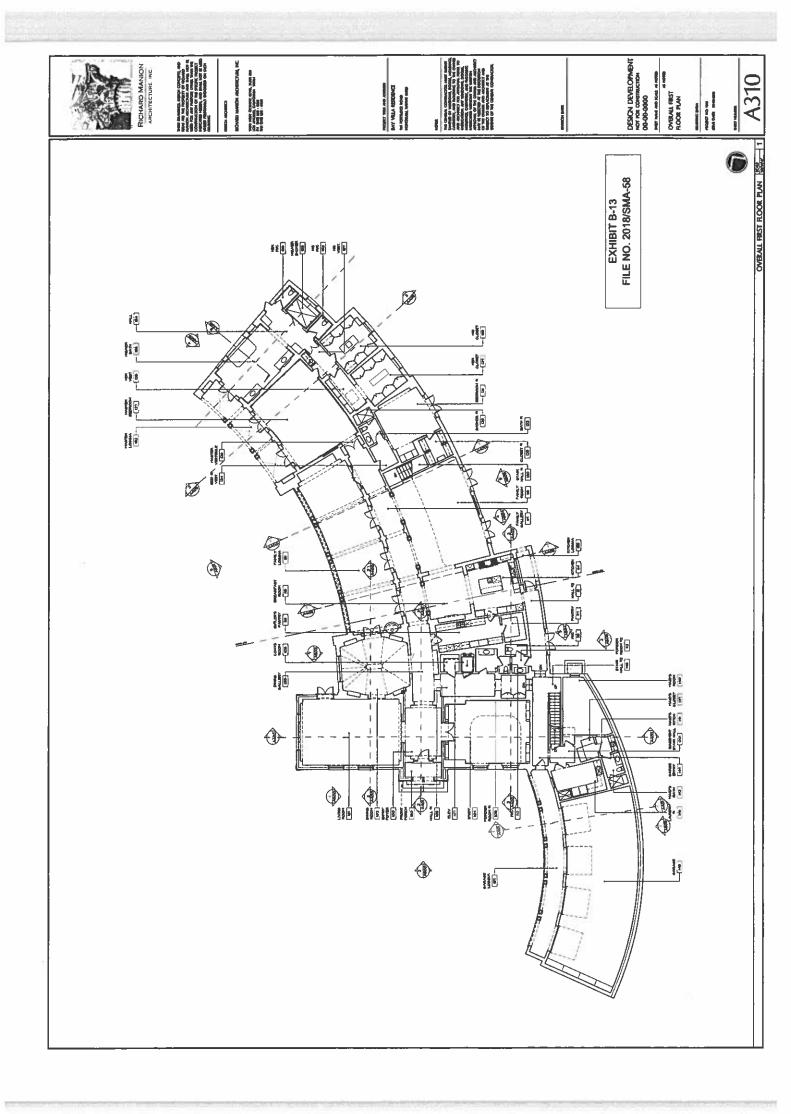


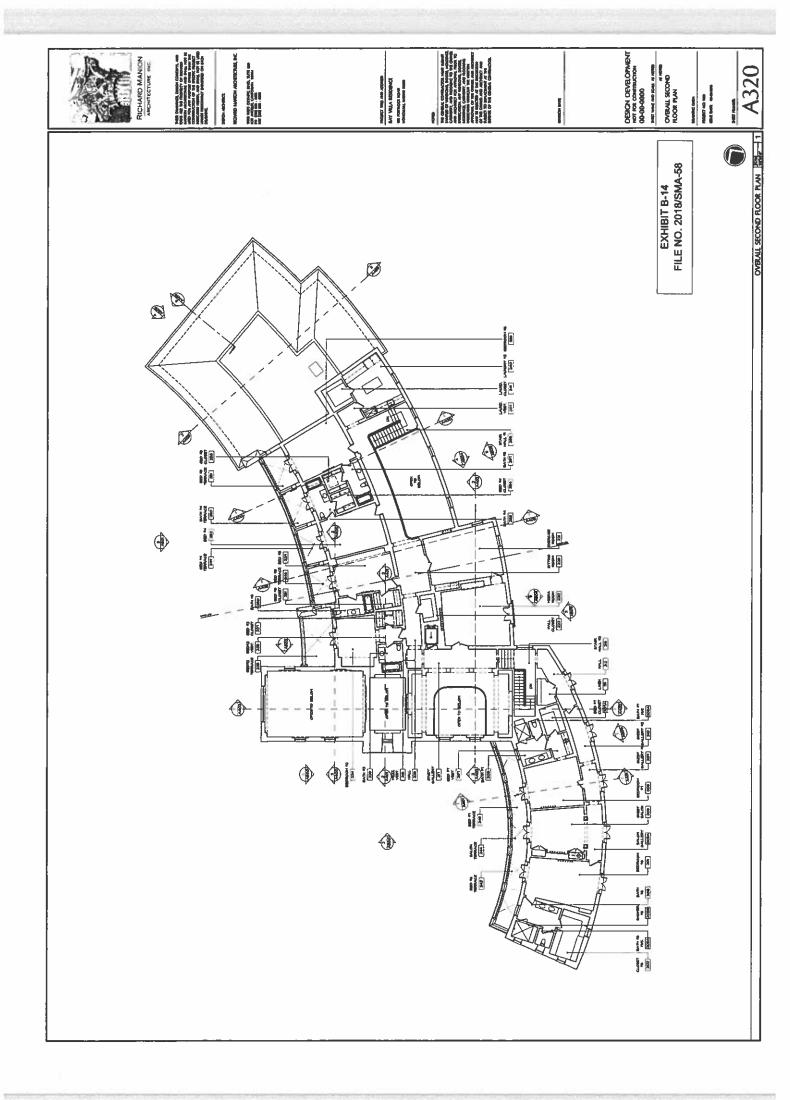


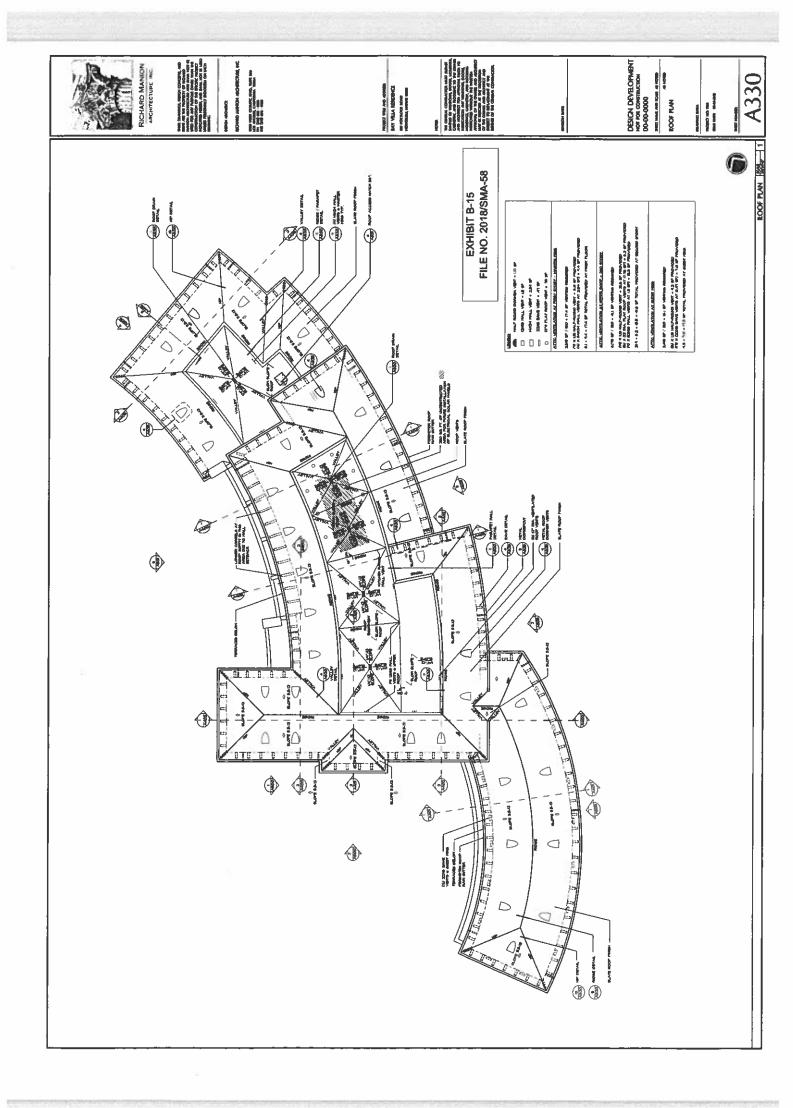


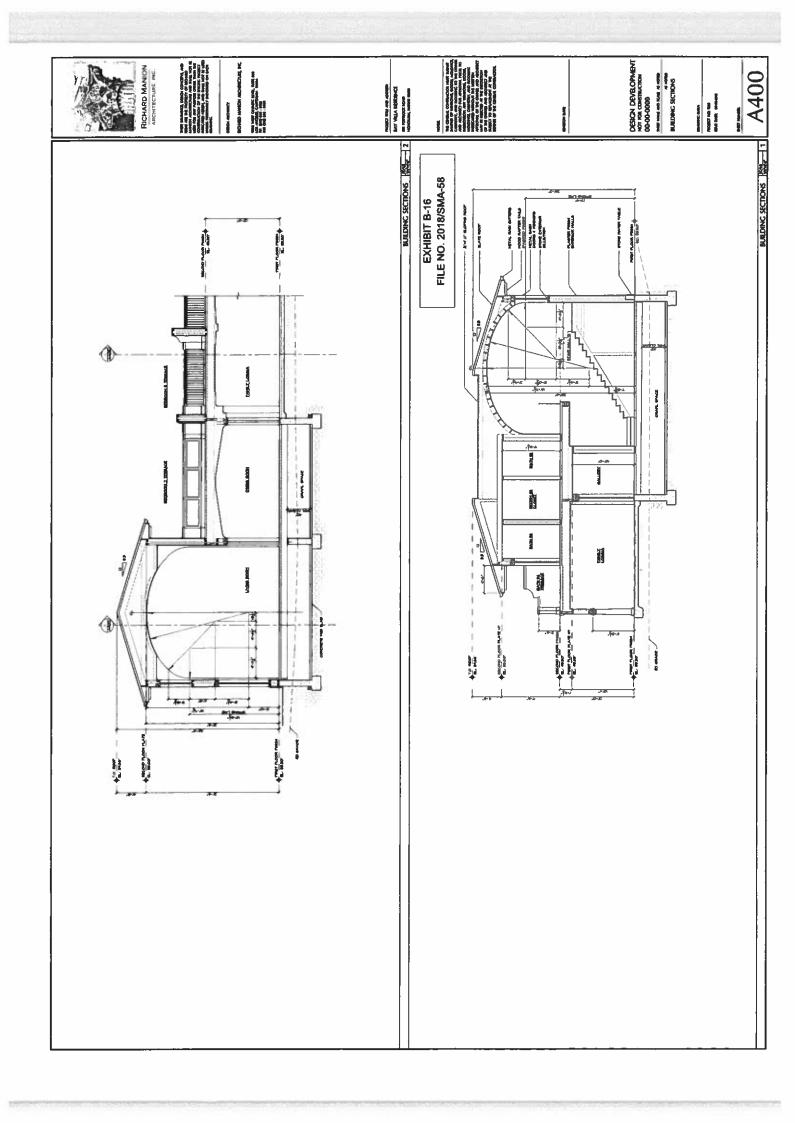


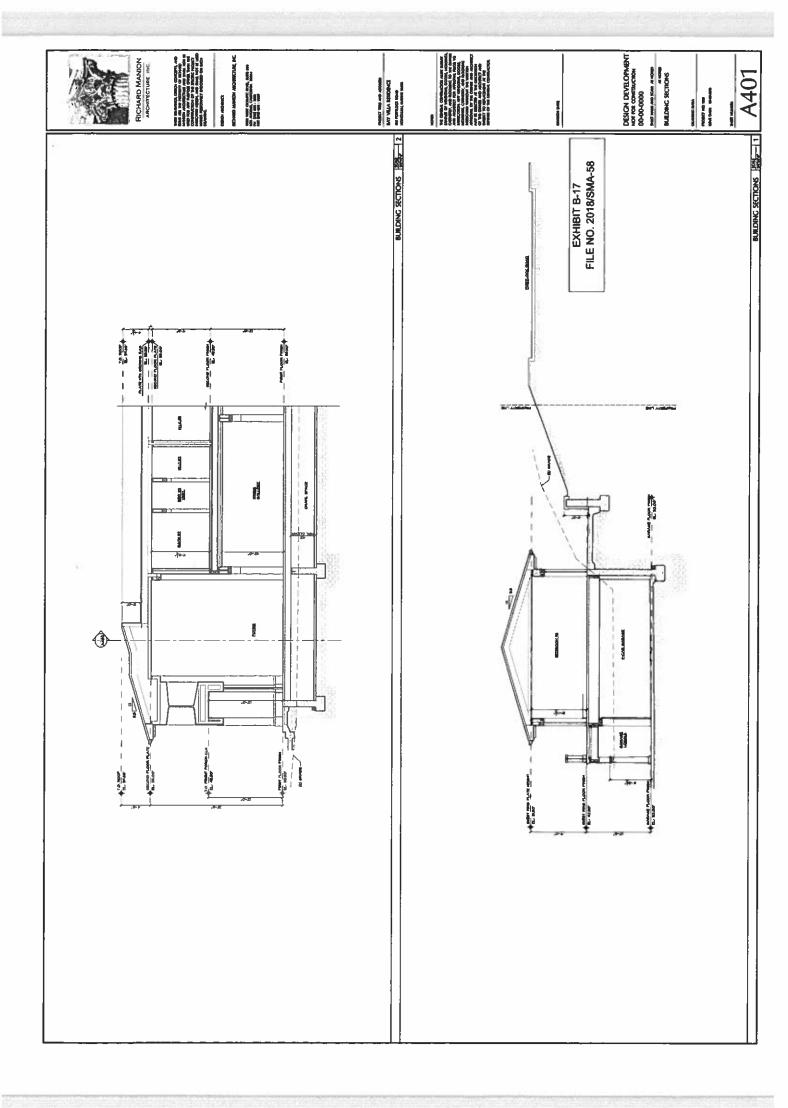


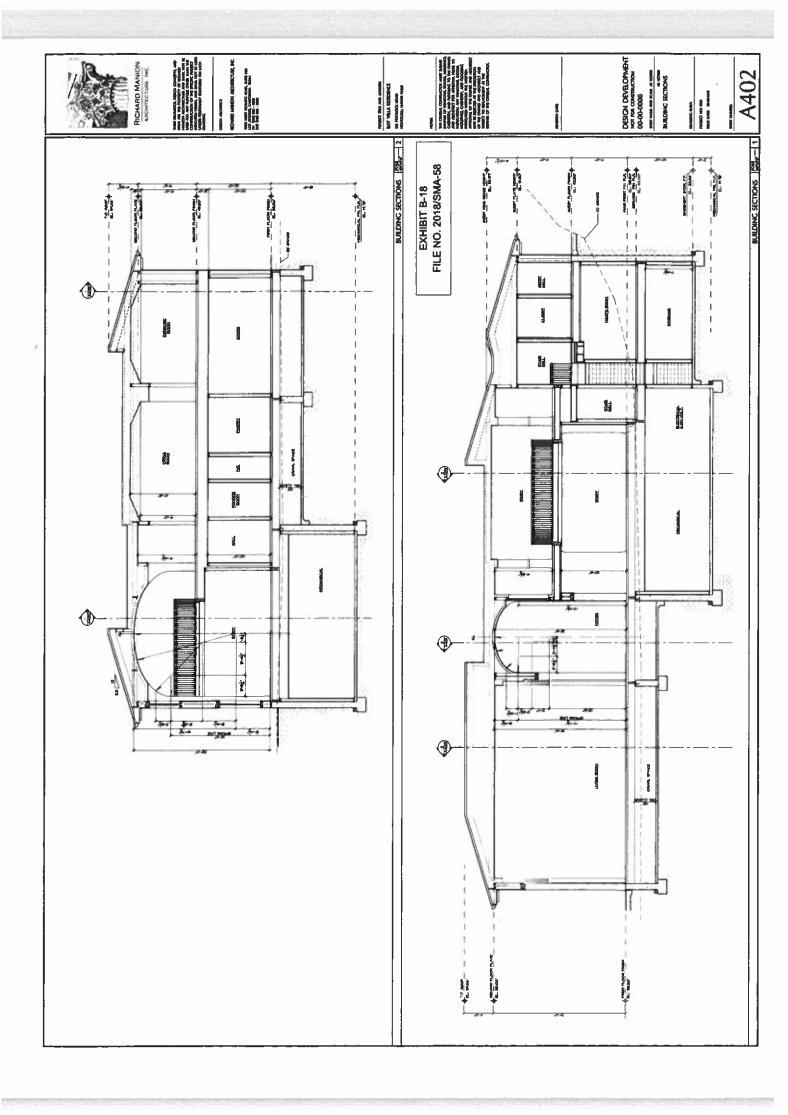


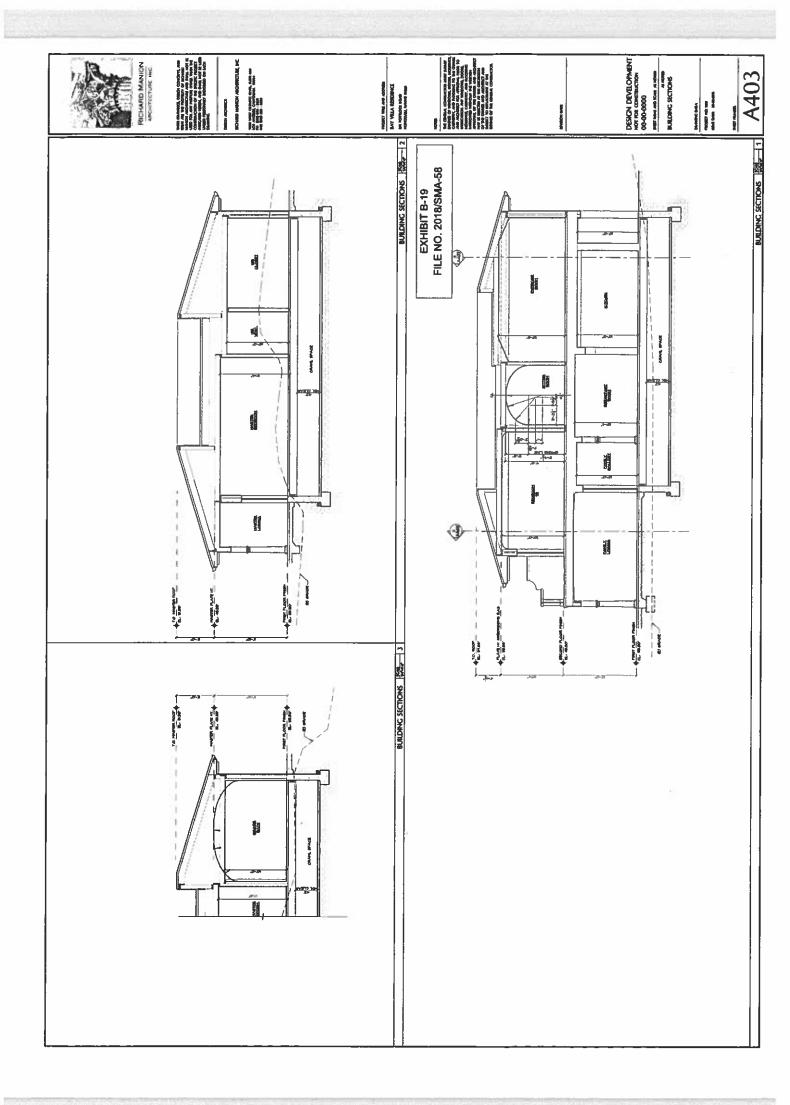


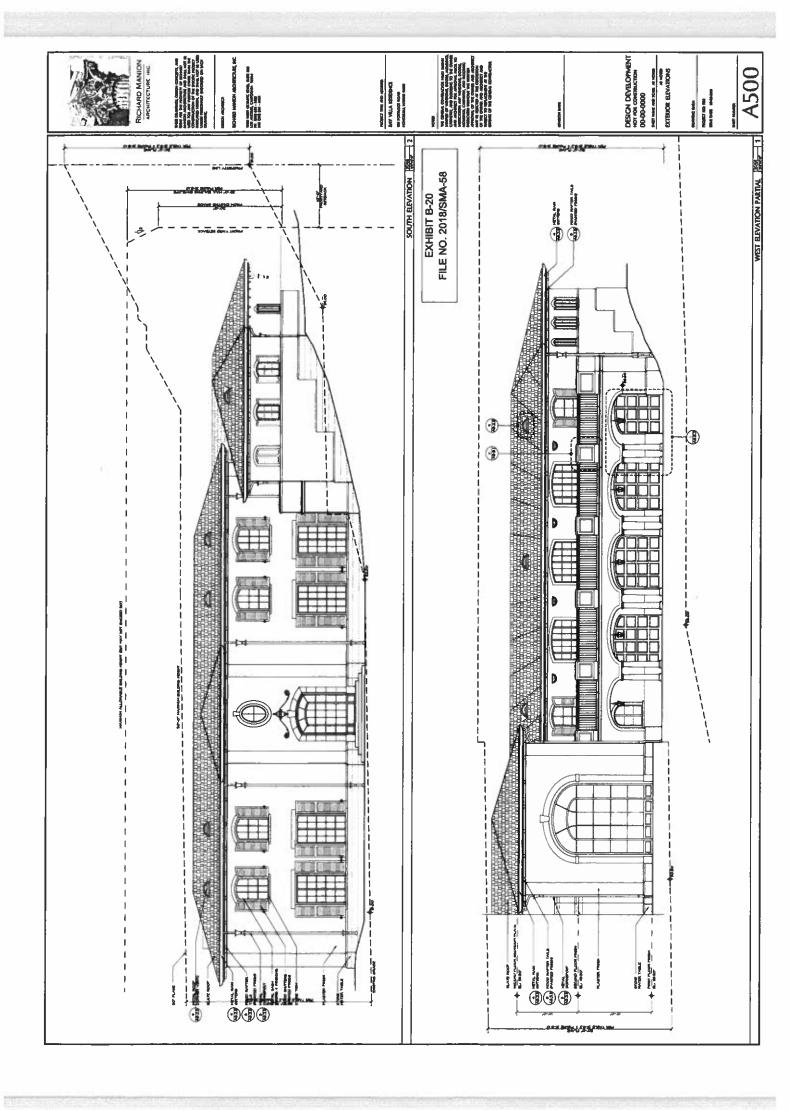


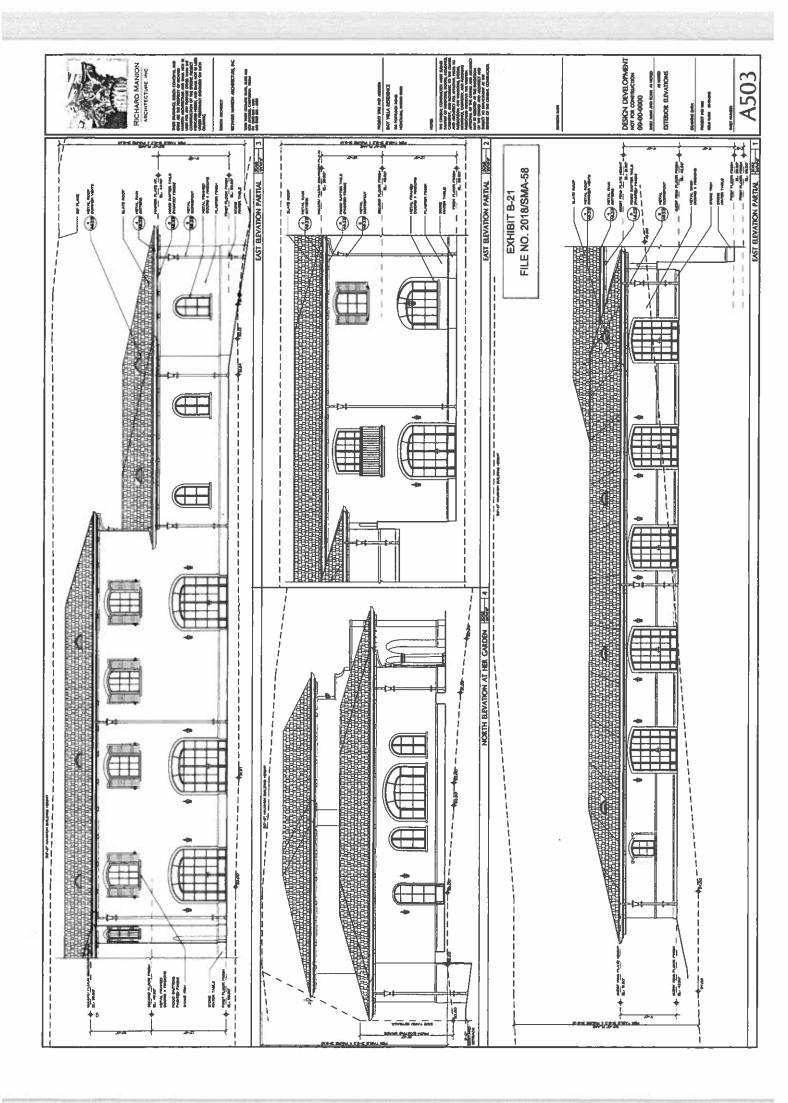


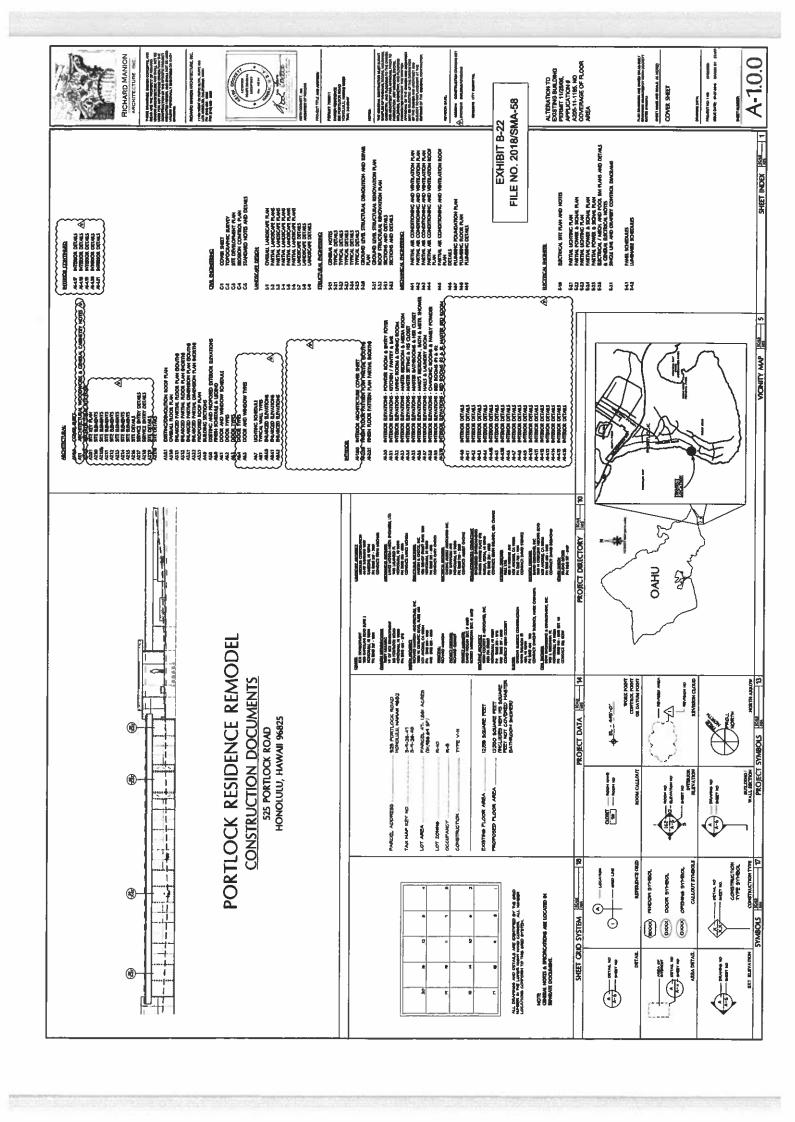


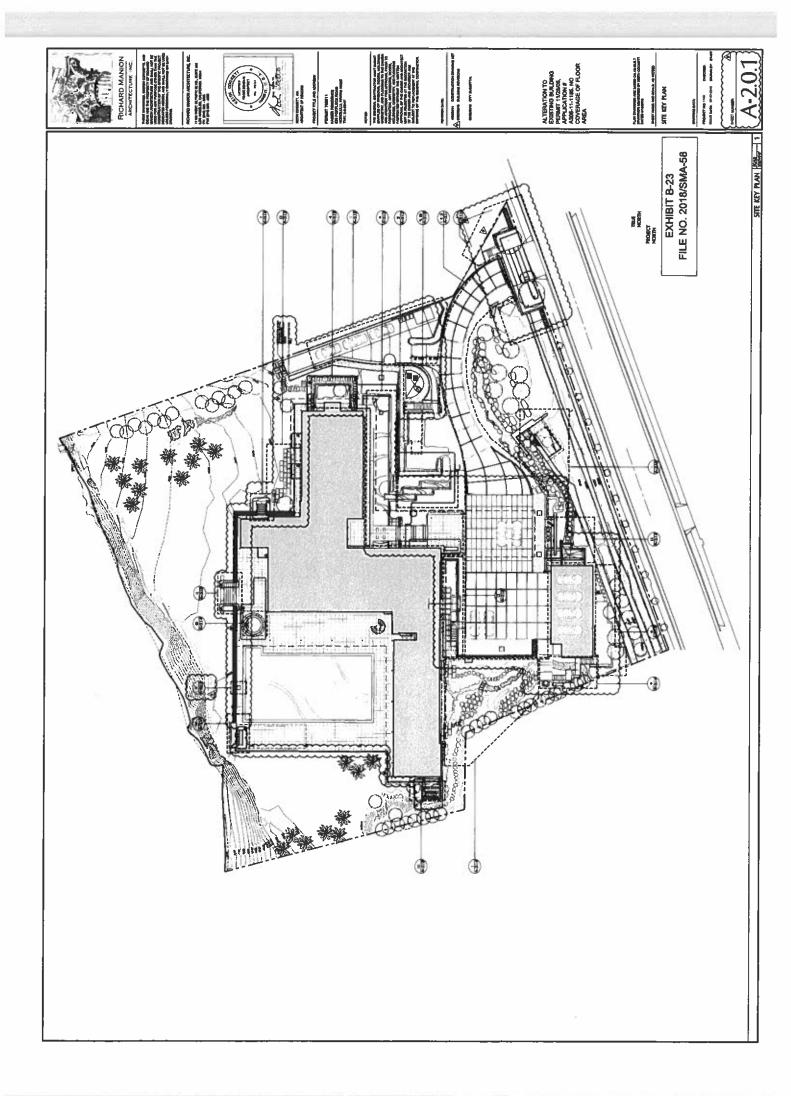


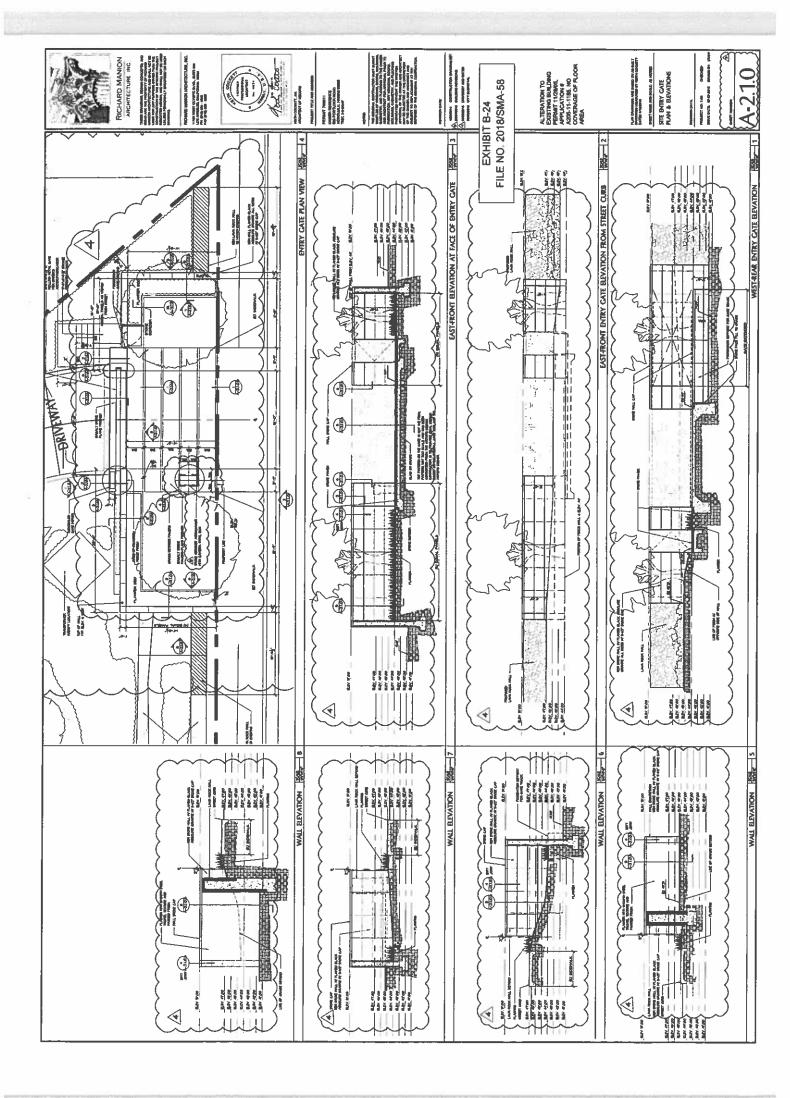


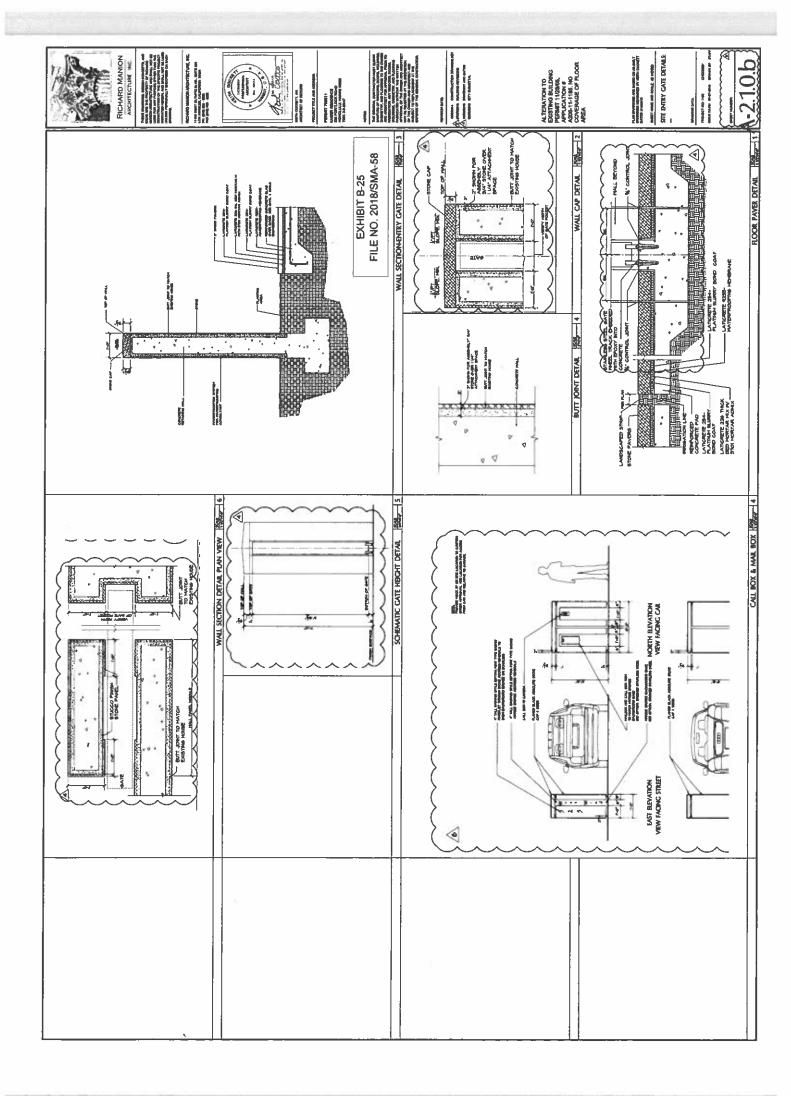


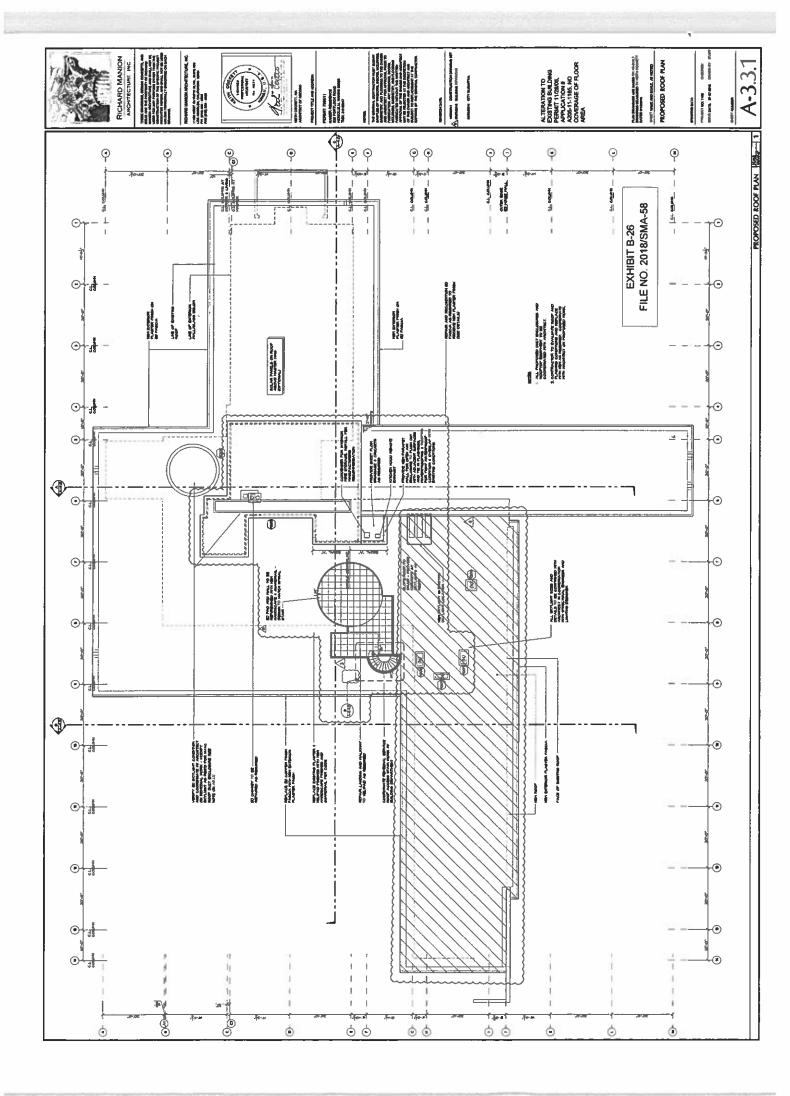


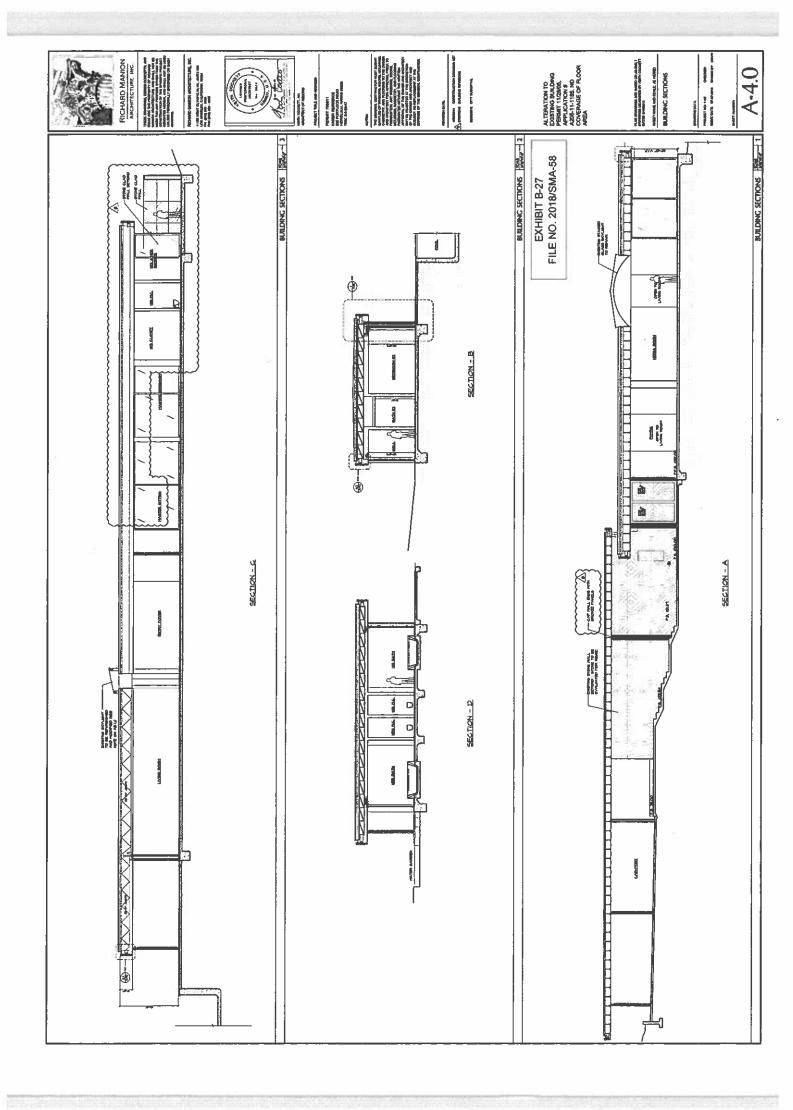


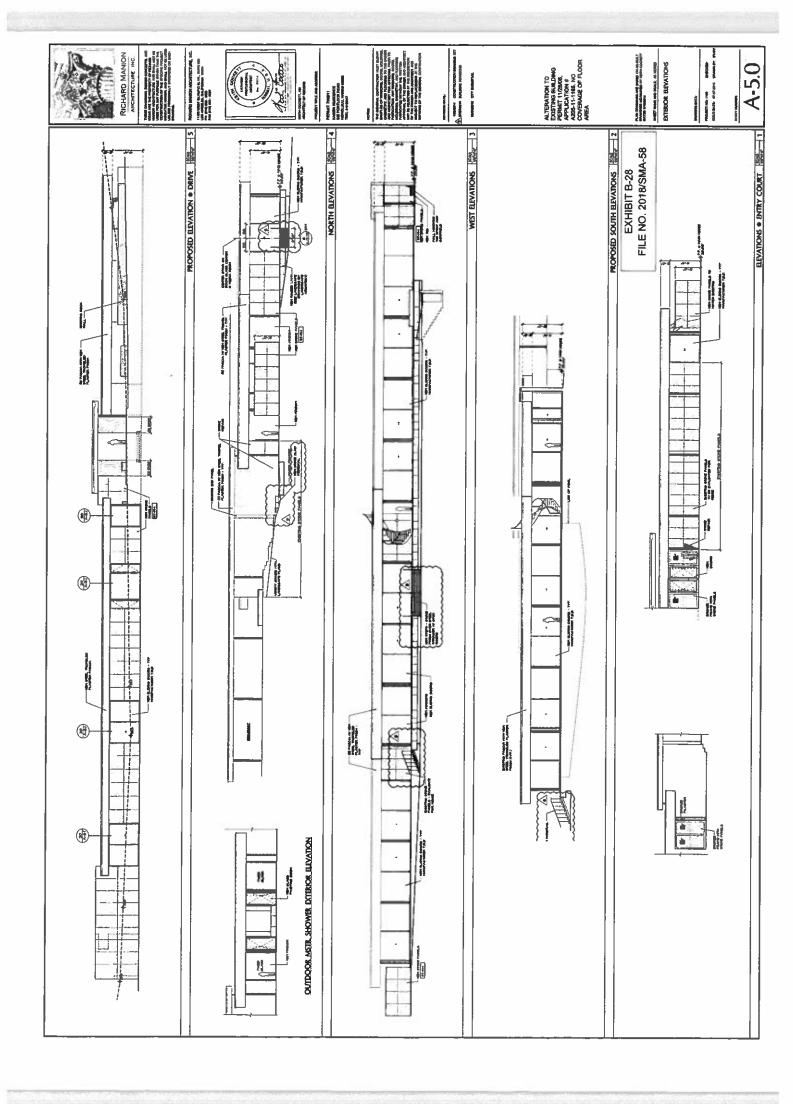












DEPARTMENT OF PLANNING AND PERMITTING CITY AND COUNTY OF HONOLULU STATE OF HAWAII

6 APPLICATION OF

7 EVERSHINE II L.P.

IN THE MATTER OF THE

FILE NO. 2018/SMA-58

TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for hearing at the Koko Head District Park, Multi-Purpose Room C, 423 Kaumakani Street, Honolulu, Hawaii on Monday, January 14, 2019, commencing at 10:36 a.m., pursuant to Notice.

BEFORE: JOYCE SHOJI, Hearings Officer

PROCEEDINGS

HEARINGS OFFICER SHOJI: Good morning. My name is Joyce Shoji and I am the Hearings Officer and representing the Department of Planning and Permitting for today's public hearing for a Major Special Management Area Use Permit, DPP File Number 2018/SMA-58.

It's 10:36 a.m. and we're at the Koko Head District Park, Multi-Purpose Room C. The notice for this public hearing was published in the December 21, 2018 edition of the Honolulu Star-Advertiser and we have posted notices on the doors leading to this room.

For the record, it is noted that except for DPP staff, the agent and their representative, no one else is present for the hearing or to present testimony.

Would the agent please step forward and state your name for the record?

MR. SILVA: Dennis Silva, Hawaii Planning LLC.

HEARINGS OFFICER SHOJI: The DPP would normally present the relevant information behind the request. Being that everyone present is familiar with the request, would you have any objections to foregoing our presentation?

MR. SILVA: No objections.

HEARINGS OFFICER SHOJI: Okay, thank you.

Would you like to make any statements that are not part of the application?

MR. SILVA: No, not at this time.

HEARINGS OFFICER SHOJI: Is there anyone who wants to present testimony?

Seeing none, the DPP has no questions for the agent. So with no further questions or comments, this public hearing for SMA permit application File Number 2018/SMA-58 is closed.

Thank you.

(Whereupon, on January 14, 2019, at 10:38 a.m., the hearing was adjourned.)

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STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

I, Jeanne Sumida, Secretary/Reporter, Department of Planning and Permitting, City and County of Honolulu, certify that the foregoing pages 1 through 3, inclusive, comprises true and accurate minutes of the entitled matter held on Monday, January 14, 2019.

Secretary/Reporter



No.		

GRANTING A SPECIAL MANAGEMENT AREA USE PERMIT TO ALLOW THE RENOVATION OF TWO EXISTING SINGLE-FAMILY DWELLING UNITS, CONSTRUCTION OF A NEW SINGLE-FAMILY DWELLING UNIT AND VARIOUS IMPROVEMENTS IN MAUNALUA.

WHEREAS, on October 31, 2018, the Department of Planning and Permitting ("DPP") accepted the application (DPP Reference Number 2018/SMA-58) from Evershine II L.P. ("Applicant") for a Special Management Area ("SMA") Use Permit to renovate two existing single-family dwellings, construct a single-family dwelling with an attached three-car garage and ancillary structures, including two swimming pools, wine storage, a detached multiple-car garage and two cabanas, and repair existing structures within the shoreline setback area within the R-10 Residential District, identified as Tax Map Keys 3-9-026: 044 through 048.

WHEREAS, on January 14, 2019, the DPP held a public hearing which was attended by the Agent and an associate, and DPP staff members. No members of the public attended the hearing; no testimony was given.

WHEREAS, on February___, 2019, within 20 working days after the close of the public hearing, the DPP, having duly considered all evidence and the objectives, policies and guidelines, as established in Sections 25-3.1 and 25-3.2, Revised Ordinances of Honolulu (ROH), and Sections 205A-2 and 205A-26, Hawaii Revised Statues ("HRS"), completed its report and transmitted its findings and recommendation to the City Council; and

WHERE	AS, the City Council, having received the findings and recommendation	
of the DPP on _	, by Departmental Communication	
No	, and having duly considered all of the findings and reports	
on the matter, desires to approve the subject application for an SMA Use Permit with		
the conditions enumerated below; now, therefore,		

BE IT RESOLVED by the Council of the City and County of Honolulu that an SMA Use Permit be issued to the Applicant for the Project, subject to the following conditions:

A. Renovation of two existing single-family dwellings, construction of a new single-family dwelling with an attached three-car garage and ancillary structures and various improvements within the SMA, and repair of existing structures within the shoreline setback area must be in general conformity with the Project as described in the Report and Recommendation by the Director of the



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Department of Planning and Permitting (DPP), and as depicted in Exhibits B-1 through B-28. Any changes in the size or nature of the Project which have a significant effect on coastal resources addressed in Chapter 25, Revised Ordinances of Honolulu, and Chapter 205-A, Hawaii Revised Statues (HRS), shall require a new application. Any changes which do not have a significant effect on coastal resources shall be considered a minor modification and therefore permitted under this resolution, upon review and approval of the Director of the DPP.

- B. Prior to issuance of any building permit for the Project, the Applicant must:
 - Complete an archaeological inventory survey (AIS) for the Project area in order to identify and document any potential surface and/or subsurface historic properties and to determine, if needed an appropriate course of mitigation. The selected archaeological firm must consult with the Department of Land and Natural Resources, State Historic Preservation Division (SHPD) prior to initiating the AIS and that a report of the survey findings be submitted to SHPD for review and acceptance pursuant to HRS 13-284; and
 - 2. Complete an intensive level survey for the buildings on the Property in order to determine, if any are eligible for the Hawaii and National Registers of Historic Places. The eligibility determination will help expedite future reviews by the SHPD Architecture Branch by clarifying whether significant architectural properties are located on the site. Property's that are determined eligible and are listed on the State or National Registers qualified by the City and County of Honolulu's historic residential tax credit.
- C. Building permit application plans must show the following:
 - Lowest livable floor at Harbor Villa is above the base flood elevation, applicable at that time; and
 - 2. The walls, fences and gates shall not exceed six feet in height within the required yards.
- D. The Applicant must have archeological monitoring during construction activities. If, during construction, any previously unidentified archaeological sites or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral



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alignments, pavings or walls) are encountered, the Applicant shall stop work and contact the SHPD immediately. Work in the immediate area shall be stopped until the SHPD is able to assess the impact and make further recommendations for mitigative activity.

- E. The Applicant shall take special care when trimming or clearing woody plants greater than 15 feet tall in order to minimize possible impacts to potential breeding of the hoary bats. Furthermore, between June 1 and September 15, woody plants greater than 15 feet tall shall not be disturbed, removed or trimmed.
- F. No element of the Project shall hinder shoreline access in any way during construction activity on the site.
- G. Artificial light from exterior light fixtures, including, but not necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes, shall be prohibited, if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), HRS.
- H. Approval of this SMA Use Permit does not constitute compliance with other Land Use Ordinances (LUO) or other governmental requirements, including grading and grubbing permits. They are subject to separate review and approval. The Applicant will be responsible for insuring that the final plans for the Project approved under this permit comply with all applicable LUO and other governmental provisions and requirements.
- I. The Applicant shall obtain a development permit for the proposed development within two years of the date of this permit. Failure to obtain a development permit within this period shall render this permit null and void, provided that this period may be extended as follows: The Director of the DPP may extend this period, if the Applicant demonstrates good cause, but the period shall not be extended beyond one year from the initial deadline set by the City Council.

If the Applicant demonstrates good cause for an extension exceeding one year, the Director shall prepare and submit to the Council a report on the proposed extension, which report must include the Director's findings and recommendations thereon. The Council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution. If the Council fails to take final



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action on the proposed extension within the first to occur of: (a) 60 days after receipt of the Director's report; or (b) the Applicant's then-existing deadline for obtaining a building permit, the extension will be deemed to be denied.

BE IT FINALLY RESOLVED by the Council of the City and County of Honolulu that copies of this Resolution be transmitted to Dennis Silva, Jr., Hawaii Planning, LLC, 1031 Nuuanu Avenue, Suite 2306, Honolulu, Hawaii 96817; Laura Brancato, SL Development, LLC, 6021 173rd Avenue SE, Bellevue, Washington 98006; Kathy K. Sokugawa, Acting Director of the Department of Planning and Permitting, 650 South King Street, 7th Floor, Honolulu, Hawaii 96813; and Leo R. Asuncion, Jr., Director of the Office of Planning, Attention: Coastal Zone Management Branch, P.O. Box 2359, Honolulu, Hawaii 96804.

	INTRODUCED BY:
DATE OF INTRODUCTION:	
**	
Honolulu, Hawaii	Councilmembers

